

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 253

Introduced by Ashford, 20.

Read first time January 14, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to children; to amend sections 23-1201,  
2 24-313, 24-519, 25-1901, 25-2728, 25-2908, 28-377,  
3 28-718, 28-719, 28-720, 28-720.01, 28-721, 28-722,  
4 28-723, 28-724, 28-725, 28-726, 28-727, 28-728, 28-729,  
5 28-730, 28-731, 28-732, 29-401, 29-1816, 29-1926,  
6 29-2246, 29-2252.01, 29-2258, 29-2260, 29-2260.01,  
7 29-3918, 29-4304, 30-2614, 42-364, 42-371, 43-101,  
8 43-104, 43-104.08, 43-104.11, 43-106.01, 43-107, 43-296,  
9 43-2,108, 43-2,109, 43-2,110, 43-2,113, 43-2,125,  
10 43-413, 43-512, 43-512.03, 43-903, 43-1002, 43-1230,  
11 43-1303, 43-1304, 43-1307, 43-1308, 43-1309, 43-1310,  
12 43-1314.01, 43-1314.02, 43-1321, 43-2922, 43-2932,  
13 43-2939, 43-3502, 43-3709, 43-3710, 71-3404, 71-3407,  
14 79-215, 81-3126, 83-108.04, and 83-170, Reissue Revised

1 Statutes of Nebraska, and sections 71-448, 71-1919,  
2 71-6039, 71-6039.01, 71-6039.03, 71-6039.05, 71-6502,  
3 and 71-6906, Revised Statutes Cumulative Supplement,  
4 2008; to transfer or repeal provisions of the Nebraska  
5 Juvenile Code and adopt a new Nebraska Juvenile Code; to  
6 change and eliminate child abuse reporting and registry  
7 provisions; to provide child relinquishment provisions;  
8 to change and eliminate provisions of and rename  
9 the Foster Care Review Act; to harmonize provisions;  
10 to provide a duty for the Revisor of Statutes; to  
11 provide an operative date; to repeal the original  
12 sections; and to outright repeal sections 28-710, 28-711,  
13 28-713, 28-713.01, 28-714, 28-715, 28-716, 28-717,  
14 28-733, 43-245, 43-246, 43-247, 43-247.01, 43-248,  
15 43-248.01, 43-249, 43-250, 43-251, 43-251.01, 43-252,  
16 43-253, 43-254, 43-254.01, 43-254.02, 43-255, 43-256,  
17 43-257, 43-258, 43-259, 43-260, 43-260.01, 43-260.02,  
18 43-260.03, 43-260.04, 43-260.05, 43-260.06, 43-260.07,  
19 43-262, 43-263, 43-264, 43-265, 43-266, 43-267, 43-268,  
20 43-269, 43-270, 43-271, 43-272, 43-272.01, 43-272.02,  
21 43-273, 43-274, 43-275, 43-276, 43-277, 43-278, 43-279,  
22 43-279.01, 43-280, 43-281, 43-282, 43-283, 43-283.01,  
23 43-284, 43-284.01, 43-284.02, 43-285, 43-286, 43-287.01,  
24 43-287.02, 43-287.03, 43-287.04, 43-287.05, 43-287.06,  
25 43-288, 43-289, 43-290, 43-291, 43-292, 43-292.01,

LB 253

LB 253

1           43-292.02, 43-292.03, 43-293, 43-294, 43-295, 43-297,  
2           43-298, 43-299, 43-2,100, 43-2,101, 43-2,102, 43-2,103,  
3           43-2,104, 43-2,105, 43-2,106, 43-2,106.01, 43-2,106.02,  
4           43-2,106.03, 43-2,107, 43-2,123.01, 43-2,128, 43-2,129,  
5           43-408, 43-903, 43-905, 43-1301, 43-1301.01, 43-1311,  
6           43-1312, 43-1313, 43-1314, 43-1315, 43-1316, and 43-1318,  
7           Reissue Revised Statutes of Nebraska.  
8   Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 218 of this act shall be known  
2 and may be cited as the Nebraska Juvenile Code.

3           Sec. 2. The purposes of the Nebraska Juvenile Code are:

4           (1) To protect children from abuse, neglect, and  
5 abandonment;

6           (2) To protect abused children, neglected children, and  
7 abandoned children;

8           (3) To protect the family;

9           (4) To protect children in need of mental health  
10 services; and

11           (5) To protect the public by:

12           (a) Holding children who violate the law responsible for  
13 their actions; and

14           (b) Providing rehabilitative services for children who  
15 violate the law.

16           Sec. 3. For purposes of the Nebraska Juvenile Code the  
17 definitions in sections 4 to 49 of this act apply.

18           Sec. 4. Abandoned child means a child who has no parent  
19 willing or able to care for the child. No contact between the  
20 child and the child's parent for a period of three months creates  
21 a rebuttable presumption of abandonment, even if there is no  
22 expressed intent to abandon.

23           Sec. 5. (1) Abused child means a child who has been:

24           (a) Present when a parent committed an act of domestic  
25 abuse. Act includes a single act, multiple acts, or a continuing

1 course of conduct, and present means physically present or able to  
2 see or hear;

3 (b) Confined or punished under circumstances which  
4 either:

5 (i) Created a substantial risk of imminent serious harm  
6 or death to the child; or

7 (ii) Resulted in serious harm or death to the child;

8 (c) Deprived of care under circumstances that either:

9 (i) Created a substantial risk of imminent serious harm  
10 or death to the child; or

11 (ii) Resulted in serious harm or death to the child; or

12 (d) Placed in a situation that endangers his or her life  
13 or physical or mental health under circumstances that either:

14 (i) Created a substantial risk of imminent serious harm  
15 or death to the child; or

16 (ii) Resulted in serious harm or death to the child.

17 (2) For purposes of this section:

18 (a) Domestic abuse means the occurrence of one or more of  
19 the following acts between household members: Attempting to cause  
20 or intentionally, knowingly, or recklessly causing physical injury  
21 with or without a deadly weapon; or placing, by physical menace,  
22 another in fear of imminent physical injury. Physical injury means  
23 physical pain or any impairment of physical condition;

24 (b) Household members include spouses or former spouses  
25 and other individuals who are presently residing together or who

1 have resided together in the past, other individuals who have a  
2 child in common whether or not they have been married or have  
3 lived together at any time, and other individuals related by  
4 consanguinity or affinity;

5 (c) Serious harm means either serious physical injury  
6 or serious mental or emotional injury or sexual abuse or sexual  
7 exploitation. Sexual abuse includes sexual assault as described in  
8 section 28-319 or 28-320 and incest as described in section 28-703;

9 (d) Serious mental or emotional injury means mental  
10 or emotional impairment which now or in the future is likely  
11 to be evidenced by serious mental, behavioral, or personality  
12 disorder, including severe anxiety, depression or withdrawal,  
13 untoward aggressive behavior, seriously delayed development, or  
14 similar serious dysfunctional behavior; and

15 (e) Serious physical injury means an injury that causes  
16 a child severe pain or significantly impairs a child's physical  
17 functioning, either temporarily or permanently.

18 Sec. 6. Administrator means the Child Services  
19 Administrator or the administrator's designee.

20 Sec. 7. Adult sentence means punishment, as authorized by  
21 the Nebraska Criminal Code, subject to the limitation in section  
22 183 of this act, for acts for which a child is adjudicated in need  
23 of state rehabilitation.

24 Sec. 8. Case plan means a specific written plan prepared  
25 by the department, the administrator, or the Office of Probation

1 Administration designed to correct, eliminate, or ameliorate the  
2 circumstances or conditions which caused the child to be in need of  
3 state protection, services, or rehabilitation.

4           Sec. 9. Child means an individual who has not attained  
5 his or her twenty-first birthday.

6           Sec. 10. Child in need of state mental health treatment  
7 means a child (1) who, as a result of a mental disorder (a) is  
8 in danger of serious physical harm or (b) manifests a serious risk  
9 of serious physical harm to himself or herself or to others and  
10 (2) for whom immediate mental health treatment can be obtained only  
11 through an involuntary placement in a mental health center.

12           Sec. 11. Child in need of state protection or protected  
13 child means a child reported, alleged, or determined to be an  
14 abused child, a neglected child, or an abandoned child.

15           Sec. 12. Child in need of state rehabilitation means a  
16 child who has committed an act that would constitute a felony or  
17 misdemeanor under the laws of this state or a misdemeanor under a  
18 city or village ordinance.

19           Sec. 13. (1) Child in need of state services means a  
20 child who is twelve years of age or older for whom there is  
21 no pending investigation into a report of abuse, neglect, or  
22 abandonment; no pending petition alleging the child is in need of  
23 state rehabilitation; no current services by the court; no pending  
24 criminal charges; or no current placement or commitment to the  
25 court or the office. The court shall also find the child:

1           (a) To have persistently absented himself or herself  
2 from his or her responsible adults without sufficient cause,  
3 permission, or justification despite substantial attempts to remedy  
4 the conditions contributing to the behavior;

5           (b) To be habitually truant from school, while subject  
6 to compulsory school attendance pursuant to section 79-201, despite  
7 substantial attempts to remedy the situation through:

8           (i) Appropriate child rearing or disciplinary practices  
9 of the child's responsible adults:

10           (ii) The procedures described in section 79-209; or

11           (iii) Voluntary participation by the child's responsible  
12 adults and the child in services offered by the administrator; or

13           (c) To have persistently disobeyed the reasonable and  
14 lawful demands of the child's responsible adults and to be  
15 beyond their control despite substantial attempts by the child's  
16 responsible adults to remedy the conditions contributing to the  
17 behavior.

18           (2) For purposes of this section, substantial attempts  
19 means the following interventions designed to prevent the child  
20 from engaging in the conduct described in this section. Substantial  
21 attempts include:

22           (a) Reasonable parenting practices;

23           (b) Good faith participation in family or individual  
24 counseling; and

25           (c) Voluntary and good faith participation by the child's

1 responsible adults and the child in services offered by the  
2 administrator.

3           Sec. 14. Commitment means a court order assigning custody  
4 of a child as authorized under the Nebraska Juvenile Code.

5           Sec. 15. County attorney means the elected county  
6 attorney and all deputy county attorneys in the office of an  
7 elected county attorney.

8           Sec. 16. Custodian means an individual or agency, other  
9 than a parent or guardian, who stands in loco parentis to the child  
10 solely because the individual or agency has custody of the child.

11           Sec. 17. Custody means physical control and  
12 responsibility for the care and services of a child. Care  
13 is providing necessary food, shelter, education, placement,  
14 training, and medicine. Medicine includes necessary medical,  
15 dental, and mental health care, including emergency care. When  
16 a child is placed out of his or her home, care also includes  
17 (1) providing the opportunity for religious or spiritual practice  
18 and observation consistent with the beliefs of the child and the  
19 child's family; and (2) comprehensive medical and mental health  
20 assessments within five days of such placement. Services is the  
21 authority to direct the activities of a child. A court with  
22 personal jurisdiction of a child has custody of the child for  
23 purposes of determining placement and care of the child consistent  
24 with the Nebraska Juvenile Code.

25           Sec. 18. Date a child entered foster care means the

1 earlier of the date of the first judicial finding that the child  
2 has been subjected to child abuse or neglect or the date that is  
3 sixty days after the date on which the child is removed from his or  
4 her home.

5           Sec. 19. Department means the Department of Health and  
6 Human Services.

7           Sec. 20. Detention of a child means the placement or  
8 commitment of a child in a juvenile detention facility.

9           Sec. 21. Diligent efforts means a course of conduct  
10 followed by a parent which results in a reduction in risk to the  
11 child in the child's home that would prevent the child's removal or  
12 allow the child to be safely placed permanently back in the home.  
13 After a disposition order has been entered, the course of conduct  
14 designed to reduce the risks to the protected child is the case  
15 plan.

16           Sec. 22. Emancipated child means a child who:

17           (1) Has entered into a valid marriage, whether or not  
18 such marriage was terminated by dissolution;

19           (2) Has been tried as an adult for a criminal offense,  
20 except a misdemeanor traffic offense, under state or federal law;

21           (3) Is on active duty with any of the armed forces of the  
22 United States; or

23           (4) Has been ordered emancipated pursuant to section 200  
24 of this act.

25           Sec. 23. Emergency custody means the temporary

1 responsibility for the physical control and services of a child  
2 taken in an emergency situation as authorized under the Nebraska  
3 Juvenile Code.

4           Sec. 24. Expanded juvenile jurisdiction means the  
5 authority of the juvenile court to determine custody of a child  
6 found to be a child in need of state rehabilitation until the  
7 child's twenty-fifth birthday. Expanded juvenile jurisdiction is  
8 obtained by the child's consent as provided in section 172 of this  
9 act.

10           Sec. 25. Extended juvenile jurisdiction means the  
11 authority of the juvenile court to determine the custody of a child  
12 found to be a child in need of state rehabilitation beyond the  
13 child's twenty-first birthday.

14           Sec. 26. Extended juvenile jurisdiction offender means a  
15 child designated to be subject to both a juvenile disposition and  
16 an adult sentence imposed by the juvenile court.

17           Sec. 27. Family in need of state services means the  
18 responsible adults and other family members of a child in need of  
19 state services.

20           Sec. 28. Foster care means twenty-four-hour a day  
21 substitute care for a child placed away from his or her parents  
22 or guardian and for whom the department has placement and care  
23 responsibility.

24           Sec. 29. Guardian means a guardian appointed for a child  
25 by a court other than a permanent guardian.

1           Sec. 30. Juvenile court or court means either a county  
2 court sitting as a juvenile court or a separate juvenile court.

3           Sec. 31. Juvenile detention facility means a facility  
4 or institution operated by one or more political subdivisions  
5 or the office for the secure custody and treatment of children  
6 younger than eighteen years of age, including children under  
7 the jurisdiction of a juvenile court who are serving a sentence  
8 pursuant to a conviction in a county court, district court,  
9 or juvenile court or who are held in detention while waiting  
10 disposition of charges against them. Juvenile detention facility  
11 does not include any facility or institution operated by the  
12 Department of Correctional Services.

13           Sec. 32. Juvenile parole officer means an employee of  
14 the office with case management responsibility only for children in  
15 need of state rehabilitation, whether conditionally released from  
16 a youth rehabilitation and treatment center or juvenile detention  
17 facility or directly committed to the custody of the office.  
18 Juvenile parole officers shall not also be assigned case management  
19 responsibilities for protected children or children in need of  
20 state services.

21           Sec. 33. Law enforcement officer means any person who  
22 is responsible for the prevention or detection of crime or the  
23 enforcement of the penal, traffic, or highway laws of the state or  
24 any political subdivision of the state for more than one hundred  
25 hours per year and is authorized by law to make arrests.

1           Sec. 34. Mediation center means a center that has applied  
2 for and received approval from the Director of the Office of  
3 Dispute Resolution under section 25-2909.

4           Sec. 35. Mediator means an individual who (a) has  
5 completed at least thirty hours of training in conflict resolution  
6 techniques, neutrality, agreement writing, and ethics as set  
7 forth in section 25-2913; (b) has an additional eight hours of  
8 juvenile offender and victim mediation training; and (c) meets the  
9 apprenticeship requirements set forth in section 25-2913.

10          Sec. 36. Mental disorder means a mental disease,  
11 dysfunction, or disability or emotional condition that has  
12 substantial adverse effects on a child's ability to function so  
13 as to jeopardize his or her health, safety, or welfare or that  
14 of others. Substantial adverse effects may be evidenced by (1)  
15 recent attempts at or threats of suicide, (2) recent attempts  
16 at or threats of serious bodily harm to himself or herself, (3)  
17 recent violent acts or threats of violence or by placing others in  
18 reasonable fear of such harm, (4) the inability to provide for his  
19 or her essential human needs, including food, clothing, shelter,  
20 essential medical care, or personal safety, (5) repeated and  
21 escalating loss of cognitive or volitional control over his or her  
22 actions, or (6) severe deterioration in routine functioning. The  
23 presence of epilepsy, mental retardation, organic brain syndrome,  
24 physical or sensory handicaps, or brief periods of intoxication  
25 caused by alcohol or other substances is not sufficient to meet

1 the criteria for a child in need of state mental health treatment  
2 but does not exclude a child otherwise determined to fulfill the  
3 criteria in this section.

4           Sec. 37. Mental health center means a facility where  
5 shelter, food, and counseling, diagnosis, treatment, care, or  
6 related services are provided for a period of more than twenty-four  
7 consecutive hours to individuals residing at such facility who have  
8 a mental disorder. The facility shall demonstrate the ability to  
9 provide mental health treatment specifically for children. A mental  
10 health center includes a hospital providing such services.

11           Sec. 38. Neglected child means a child whose parent has:

12           (1) Left the child unattended in a motor vehicle under  
13 conditions creating a substantial risk of harm to the child if such  
14 child is six years of age or younger;

15           (2) Deprived the child of care; or

16           (3) Placed the child in a situation that endangers the  
17 child's life or physical or mental health.

18           Sec. 39. Office means the Office of Juvenile Services.

19           Sec. 40. Parent means a biological or adoptive father or  
20 mother or permanent guardian of a child.

21           Sec. 41. Parole means conditional release from a youth  
22 rehabilitation and treatment center supervised by the office  
23 pursuant to the Health and Human Services, Office of Juvenile  
24 Services Act.

25           Sec. 42. Permanency plan means a specific written plan

1 prepared by the department to provide a substitute, stable,  
2 long-term home for a child in need of state protection or a  
3 child in need of state services when return to the child's family  
4 is not possible or is not in the child's best interests.

5           Sec. 43. Permanent guardian means an adult who has a  
6 court-ordered fiduciary relationship with a child in which the  
7 permanent guardian has the custody of the child and the powers  
8 and duties under section 30-2613. A permanent guardianship endures  
9 until the child reaches the age of majority, is emancipated, or the  
10 permanent guardianship is terminated as provided in sections 129 to  
11 132 of this act or section 30-2614.

12           Sec. 44. Placement means the designation by court of  
13 where and with whom the child will live.

14           Sec. 45. Probation means a disposition under which a  
15 child in need of state services or a child in need of state  
16 rehabilitation is released by a court to services by a probation  
17 officer and is subject to conditions imposed by the court.

18           Sec. 46. Protective services means services and  
19 interventions designed to correct, eliminate, or ameliorate the  
20 circumstances or conditions creating the risk of harm which caused  
21 or may cause the child to be a child in need of state protection.

22           Sec. 47. Responsible adult means a child's parent,  
23 stepparent, guardian, or custodian.

24           Sec. 48. Termination of parental rights means complete  
25 severance by court order of the legal relationship, with all

1 its rights and responsibilities, between child and parent.  
2 Termination of parental rights includes termination of a permanent  
3 guardianship.

4           Sec. 49. Traffic offense means any nonfelonious act in  
5 violation of a law or ordinance regulating vehicular or pedestrian  
6 travel, whether designated a misdemeanor or a traffic infraction.

7           Sec. 50. (1) For purposes of implementation of the  
8 Nebraska Juvenile Code:

9           (a) The administrator and department may provide services  
10 to children and families on a voluntary basis to effect the  
11 purposes of the code;

12           (b) The administrator and department shall insure that  
13 all services necessary to effect the purposes of the code are  
14 available to every child committed to the court and to such child's  
15 family;

16           (c) The administrator and department shall not be  
17 required to provide or pay for court-ordered services for any child  
18 not committed to the court or for court-ordered services provided  
19 to a family of a child not committed to the court; and

20           (d) The juvenile court may develop, coordinate, contract  
21 for, or administer such services as it deems appropriate for  
22 children and families within the jurisdiction of the juvenile  
23 court.

24           (2) The following caseload standards apply under the  
25 Nebraska Juvenile Code: The administrator shall supervise the

1 delivery of all services to children committed to the court  
2 and their families. The administrator and the department shall  
3 establish and maintain caseloads that permit adequate, timely, and  
4 in-depth investigations and services to children and families. In  
5 establishing the standards for such caseloads, the administrator  
6 and department shall consider differing workload factors that  
7 may be due to geographic factors, types of caseloads, office  
8 location, and travel required to provide a timely response in the  
9 investigation of abuse and neglect, the protection of children and  
10 the public, and the provision of services to children and families  
11 in a uniform and consistent statewide manner. The administrator and  
12 department shall consult with appropriate employee representatives  
13 and with appropriate professional and academic associations and  
14 groups in establishing such standards.

15 (3) The department, administrator, and juvenile courts  
16 shall liberally apply and implement the Nebraska Juvenile Code so  
17 that the purposes of the code stated in section 2 of this act are  
18 carried out.

19 Sec. 51. (1) The juvenile court has exclusive original  
20 jurisdiction over all proceedings relating to children residing or  
21 found in the state who are alleged to be in need of:

22 (a) State protection;

23 (b) State services;

24 (c) State rehabilitation;

25 (d) State mental health treatment; or

1           (e) Emancipation.

2           (2) The juvenile court has exclusive original  
3 jurisdiction over all proceedings relating to families alleged to  
4 be families in need of state services residing or found in the  
5 state.

6           (3) The juvenile court has jurisdiction over the family,  
7 meaning siblings and responsible adults, of a child as soon as the  
8 court has jurisdiction over the child.

9           (4) The juvenile court also has jurisdiction over:

10           (a) The proceedings for termination of parental rights as  
11 provided in the Nebraska Juvenile Code;

12           (b) The proceedings for termination of parental rights as  
13 provided in section 42-364;

14           (c) Any child who has been voluntarily relinquished  
15 pursuant to section 245 of this act for adoption to the department  
16 or any licensed child placement agency licensed by the department;

17           (d) The adoption or guardianship proceedings for any  
18 child over which the juvenile court has jurisdiction; and

19           (e) The paternity determination for any child over which  
20 the juvenile court has jurisdiction.

21           Sec. 52. (1) On application of a party or on the court's  
22 own motion, the court may restrain or otherwise control the conduct  
23 of a person, including the siblings and responsible adults of a  
24 child, if the court has jurisdiction over the child under the  
25 Nebraska Juvenile Code and the court finds that the conduct of the

1 person is or may be detrimental or harmful to the child. Notice of  
2 the application or motion and an opportunity to be heard thereon  
3 shall be given to the person against whom such application or  
4 motion is directed, except that the court may enter a temporary  
5 order restraining or otherwise controlling the conduct of a person  
6 for the protection of a child without prior notice if it appears to  
7 the court that it is necessary to issue such order forthwith. Such  
8 temporary order shall be effective not to exceed ten days and shall  
9 not be binding against any person unless he or she has received a  
10 copy of such order. Any person who violates an order restraining  
11 or otherwise controlling his or her conduct under this section is  
12 guilty of a Class II misdemeanor and may be proceeded against as  
13 described in sections 42-928 and 42-929.

14 (2) The court shall issue all orders necessary against  
15 the family, meaning the siblings and responsible adults of a child,  
16 of a child under the court's jurisdiction to resolve the issues  
17 that caused the child to be before the court. In addition to the  
18 sanctions in subsection (1) of this section, the court may punish  
19 a violation of an order issued under this subsection or any other  
20 conduct constituting contempt by fine or imprisonment, or both.

21 Sec. 53. Sections 53 to 61 of this act apply for the  
22 determination of support for all children within the jurisdiction  
23 of the juvenile court.

24 Sec. 54. Unless parental rights are terminated, parents  
25 are responsible for the financial support of their children.

1           Sec. 55. (1) For a child previously found to be within  
2 the jurisdiction of the juvenile court, the juvenile court has  
3 exclusive jurisdiction in all matters arising under Chapter 42,  
4 article 3, relating to the support or custody of such child.  
5 If such cases are filed in the county court or district court,  
6 they shall be transferred to the docket of the juvenile court  
7 upon a finding that any child named in such case is within the  
8 jurisdiction of the juvenile court.

9           (2)(a) All juvenile court orders providing for child  
10 support or spousal support as defined in section 42-347 shall be  
11 governed by sections 42-347 to 42-381 and sections 53 to 61 of this  
12 act.

13           (b) Certified copies of such orders shall be filed by  
14 the clerk of the juvenile court with the clerk of the district  
15 court who shall maintain a record as provided in subsection (4) of  
16 section 42-364.

17           (c) There shall be no fee charged for the filing of such  
18 certified copies.

19           Sec. 56. (1) Support shall be determined in accordance  
20 with the Income Withholding for Child Support Act. This  
21 determination may be made at the hearing at which placement,  
22 evaluation, commitment, or treatment is determined or at a separate  
23 hearing. The rules of evidence shall not apply during the court's  
24 determination of support. If a separate hearing is held, notice  
25 to the parent shall be provided at least five days prior to the

1 separate hearing.

2 (2) In making its determination, the court shall  
3 consider:

4 (a) The factors listed in the act;

5 (b) The cost of the care and support of the child; and

6 (c) The parent's ability to pay, including the parent's  
7 ability to provide health care benefit plan coverage which would  
8 pay for some or all of the health care expenses of the child.

9 (3) (a) The court may order a parent to obtain or continue  
10 to provide health care benefit plan coverage for the child or  
11 to pay over any plan benefit sums received as a result of such  
12 coverage for the child.

13 (b) The payment of any deductible under the health care  
14 benefit plan covering the child is the responsibility of the  
15 parent.

16 Sec. 57. If the parent willfully fails or refuses to  
17 pay any amount ordered or fails or refuses to pay over any health  
18 care plan benefit sums received, the court may proceed against the  
19 parent as for contempt, either on the court's own motion or on the  
20 motion of the county attorney or authorized attorney as provided in  
21 section 43-512, or execution may be issued at the request of any  
22 individual, agency, or facility treating or maintaining such child.

23 Sec. 58. (1) An order of support entered under sections  
24 53 to 61 of this act shall have the same force and effect as a  
25 civil judgment under the Income Withholding for Child Support Act.

1           (2) Any amounts received by the court under the act shall  
2 be transmitted to the individual, agency, facility, or institution  
3 having custody of the child for whom the support is ordered to  
4 an individual, agency, facility, or institution which provided  
5 services to such child in payment for services rendered.

6           Sec. 59. (1) The court may at any time, with proper  
7 notice to the parties, revise or alter the order of payment for  
8 support because of a change in the circumstances of the parties.

9           (2) The juvenile court shall retain jurisdiction over a  
10 parent ordered to pay support for the purpose of enforcing such  
11 support order for so long as such support remains unpaid, but for  
12 not more than ten years after the twenty-first birthday of the  
13 youngest child for whom support was ordered.

14           Sec. 60. If no provision is otherwise made by law for the  
15 support or payment for the support of the child, such support shall  
16 be paid, when approved by an order of the court, out of a fund  
17 which shall be appropriated by the county in which the petition is  
18 filed. The amount to be paid for education pursuant to this section  
19 shall not exceed the average cost for education of a public school  
20 student in the county where the child is placed and shall be paid  
21 only for education in kindergarten through grade twelve.

22           Sec. 61. Whenever the child is placed or committed by the  
23 juvenile court to someone other than the child's parent, including  
24 placement with a state agency, when medical, psychological, or  
25 psychiatric evaluation or treatment is provided under order of the

1 court, or when a child is committed to a mental health center as  
2 provided in sections 202 to 216 of this act, the court shall make  
3 a determination of financial support to be paid by a parent for the  
4 costs of such placement, evaluation, commitment, or treatment.

5       Sec. 62. All proceedings regarding children in need of  
6 state protection are governed by sections 62 to 114 of this act.

7       Sec. 63. When a child is alleged in a report required by  
8 section 64 of this act, alleged in a petition filed in court, or  
9 determined by the court to be a child in need of state protection,  
10 the health and safety of the child shall be of paramount concern.  
11 When state protection is required, the least intrusive and least  
12 restrictive method consistent with the needs of the child shall be  
13 employed. Any services required to insure the protection of the  
14 child and to effect the other purposes of the Nebraska Juvenile  
15 Code shall be provided as close to the home community of the child  
16 as possible.

17       Sec. 64. (1) When an individual has reasonable cause  
18 to believe that a child is or may be a child in need of state  
19 protection, he or she shall cause a report to be made to the  
20 proper law enforcement agency or to the department on the toll-free  
21 number established by subsection (2) of this section. Such report  
22 may be made orally by telephone with the caller giving his or  
23 her name and address, shall be followed by a written report, and  
24 to the extent available shall contain the address and age of the  
25 child in need of state protection, the address of the person or

1 persons having custody of the child in need of state protection,  
2 the nature of the conditions and circumstances which caused the  
3 reporting individual to make the report, any evidence of previous  
4 abuse or neglect including the nature and extent thereof, and any  
5 other information which in the opinion of the reporting individual  
6 may be helpful in establishing whether the child is in need of  
7 state protection and the identity of the responsible adult. A law  
8 enforcement agency receiving a report under this subsection shall  
9 notify the department of the report on the next working day by  
10 telephone or mail.

11 (2) The department shall establish a statewide toll-free  
12 number to be used by any individual any hour of the day or night,  
13 any day of the week to make reports required by subsection (1) of  
14 this section. All reports not previously made to a law enforcement  
15 agency under such subsection shall immediately be made to such  
16 agency by the department on a form provided by the department.

17 (3) The department shall file each report of suspected  
18 abuse or neglect in the state Child Protection Registry maintained  
19 in the department as provided in sections 269 to 285 of this act.

20 Sec. 65. (1) All reports alleging that a child is or may  
21 be a child in need of state protection shall be investigated.

22 (2) Law enforcement shall investigate every report  
23 alleging a child is or may be a child in need of state protection  
24 to determine whether a crime has been committed. The department  
25 shall investigate all such reports to determine whether the child

1 or the child's family is in need of state services.

2 (3) The department and law enforcement shall coordinate  
3 and collaborate with each other to insure the investigations  
4 required by this section are conducted in a manner designed to:

5 (a) Insure the child's safety;

6 (b) Minimize trauma to the child;

7 (c) Determine whether the child is a child in need of  
8 state protection;

9 (d) Protect the rights of any person accused or suspected  
10 of child abuse, neglect, or abandonment; and

11 (e) Complete the investigation in a timely manner.

12 (4) Investigations shall be completed as soon as  
13 practicable, consistent with the safety of the child or children,  
14 the rights of all subjects of investigations, and public safety.

15 (5) The county attorney of the county where the child  
16 resides and the county attorney of the county in which the  
17 investigation occurs, if they are different counties, shall be  
18 advised, on a form provided by the department or the investigating  
19 law enforcement agency, of every investigation regarding a child  
20 alleged to be a child in need of state protection.

21 Sec. 66. (1) A child alleged or suspected to be a  
22 child in need of state protection shall be interviewed in a safe  
23 place conducive to good interviewing practice. Good interviewing  
24 practice includes, but is not limited to, using language that is  
25 developmentally appropriate for the child being interviewed. The

1 interview may be conducted:

2 (a) In any public place or in any private place where the  
3 interviewers otherwise have a right to be present; and

4 (b) Outside the presence of the child's parent.

5 (2) An individual in charge of a public place where an  
6 interview of a child alleged or suspected to be a child in need  
7 of state protection takes place shall be notified of the interview  
8 but may not reveal the occurrence of the interview or the content  
9 of the interview to anyone and may not impede or obstruct the  
10 interview in any manner. Intentional, knowing, or willful violation  
11 of this subsection is a Class I misdemeanor. Reckless or negligent  
12 violation of this subsection is a Class III misdemeanor.

13 (3) An individual conducting, during an investigation,  
14 an interview of a child alleged or suspected of being a child  
15 in need of state protection shall have specialized training  
16 regarding interviewing children prior to conducting such an  
17 interview. Specialized training shall include training regarding  
18 the cognitive, linguistic, and emotional development of children.

19 Sec. 67. (1) Upon completion of the investigation under  
20 section 65 of this act:

21 (1) In situations of alleged out-of-home abuse or  
22 neglect, the person or persons having custody of the child  
23 alleged to be a child in need of state protection shall be  
24 given written notice of the results of the investigation and any  
25 other information the law enforcement agency or department deems

1 necessary. Such notice and information shall be sent by first-class  
2 mail; and

3 (2) The subject of the report shall be given written  
4 notice of the determination of the case and whether the subject  
5 of the report will be entered into the Child Protection Registry  
6 pursuant to subdivision (1), (2), or (3) of section 272 of this  
7 act. Such notice to the subject shall be sent by certified mail to  
8 the subject's last-known address and shall include:

9 (a) The nature of the report;

10 (b) The classification of the report; and

11 (c) Notification of the subject's right to a hearing and  
12 to an appeal in accordance with section 276 of this act.

13 Sec. 68. An individual participating in an investigation  
14 or the making of a report pursuant to sections 64 to 67 of this  
15 act or participating in a judicial proceeding resulting therefrom  
16 shall be immune from any liability, civil or criminal, that might  
17 otherwise be incurred or imposed, except for maliciously false  
18 statements.

19 Sec. 69. An individual who willfully fails to make a  
20 report required by sections 64 to 67 of this act or knowingly  
21 releases confidential information, other than as provided by law,  
22 shall be guilty of a Class III misdemeanor.

23 Sec. 70. (1) (a) The juvenile court has exclusive original  
24 jurisdiction over every case in which a child is alleged to  
25 be a child in need of state protection. The juvenile court's

1 subject matter jurisdiction begins when continued emergency custody  
2 proceedings regarding a protected child are instituted. If a  
3 petition alleging a child to be a protected child is filed, the  
4 jurisdiction of the court continues until the child is found not  
5 to be a child in need of state protection. The juvenile court may  
6 find that a child is not a child in need of state protection at the  
7 adjudication hearing or any time thereafter.

8 (b) If the court finds a child to be a child in need of  
9 state protection, only the court may determine the child to be no  
10 longer a child in need of state protection.

11 (c) The juvenile court has jurisdiction over all parties  
12 to an action regarding a child alleged or found to be a child in  
13 need of state protection. The juvenile court's jurisdiction over  
14 the department is limited as provided in section 106 of this act.

15 (2) Personal jurisdiction attaches to a protected child  
16 when:

17 (a) The child is taken into emergency custody; or

18 (b) The child is named in a petition filed with the court

19 and:

20 (i) An order for emergency custody is entered; or

21 (ii) If there is no order for emergency custody, the  
22 child or the child's parent is served notice of the action as  
23 provided in section 81 of this act.

24 (3) The juvenile court has jurisdiction over every adult  
25 alleged or found to be a responsible adult for a protected child.

1           (4) Personal jurisdiction does not attach to a parent of  
2 a protected child until:

3           (a) The child is taken into emergency custody; or

4           (b) The child is named in a petition filed with the court

5 and:

6           (i) An order for emergency custody is entered; or

7           (ii) If there is no order for emergency custody, the

8 parent is served with notice of the action as provided in section

9 81 of this act.

10           (5) Personal jurisdiction over a protected child or a

11 parent based solely on emergency custody of the protected child

12 attaches only as long as the emergency custody continues.

13           (6) If an order entered by the juvenile court regarding a

14 protected child conflicts with an order entered by another court,

15 the order of the juvenile court has precedence.

16           Sec. 71. (1) The department shall care for every

17 protected child placed by or committed to the court and shall

18 decide what care is appropriate.

19           (2) The department shall provide protective services as

20 required by a disposition order regarding a protected child and

21 shall provide protective services to the family of every protected

22 child.

23           (3) Protective services may be provided without a court

24 order if:

25           (a) No petition alleging a child to be a child in need of

1 state protection has been filed;

2 (b) The family requests or agrees to protective services;

3 and

4 (c) The department determines protective services are

5 appropriate and necessary.

6 Sec. 72. (1) A law enforcement officer may take emergency  
7 custody of a protected child without a court order whenever it  
8 reasonably appears that a situation or set of circumstances exist  
9 which create an imminent risk of serious harm to a child. Only a  
10 law enforcement officer may take emergency custody of a protected  
11 child without a court order.

12 (2) A law enforcement officer taking a child into  
13 emergency custody under this section shall take reasonable measures  
14 to notify the child's responsible adult that the child is in  
15 emergency custody and the reasons the child was taken into  
16 emergency custody.

17 (3) A law enforcement officer taking a child into  
18 emergency custody under this section shall, as soon as practicable,  
19 deliver the child to the department.

20 Sec. 73. When a child is taken into emergency custody,  
21 the department shall place the child in the least restrictive  
22 setting consistent with the best interests of the child as  
23 determined by the department, and the department shall supervise  
24 the placement. Except as provided in subdivision (1)(d) of section  
25 75 of this act, a protected child shall not be placed in a juvenile

1 detention facility. The department shall consent only to necessary  
2 emergency medical, dental, psychological, or psychiatric treatment  
3 so long as emergency custody continues.

4           Sec. 74. (1) Within twelve hours after assuming emergency  
5 custody of a child without a court order, the law enforcement  
6 officer shall submit a written report describing the emergency to:

7           (a) The county attorney of the county where emergency  
8 custody was taken; and

9           (b) The department's office in or nearest to the county  
10 where emergency custody was taken.

11           (2) (a) Anytime after a protected child has been taken  
12 into emergency custody without a court order, a request for  
13 continued emergency custody may be filed with the court.

14           (b) The request for continued emergency custody may be  
15 filed ex parte.

16           (c) The request shall set forth the reasons the court  
17 should grant continued emergency custody, including the situation  
18 or circumstances creating the emergency.

19           (d) The request shall be supported by testimony or  
20 affidavit. The affidavit may be based on information and belief.  
21 No child under the age of thirteen shall be required or asked  
22 to sign the affidavit or to testify in support of the request.  
23 If the request is supported solely by testimony, a written report  
24 describing the facts and circumstances creating the emergency shall  
25 be filed with the request.

1           (e) Any party may request, or the court may order without  
2 a request, a hearing regarding continued emergency custody. If a  
3 party requests a hearing regarding continued emergency custody, the  
4 court shall set a hearing. The hearing shall be held prior to the  
5 expiration of emergency custody.

6           (f) The rules of evidence shall not apply to hearings  
7 regarding continued emergency custody.

8           (g) In any proceedings regarding continued emergency  
9 custody, the state has the burden of showing that probable cause  
10 exists to believe that the child is a child in need of state  
11 protection and that an emergency exists.

12           (h) If the court finds there is probable cause to believe  
13 the child is a child in need of state protection and that an  
14 emergency exists, the court shall order continued emergency custody  
15 for a period not to exceed five judicial days.

16           (i) If the court orders continued emergency custody,  
17 the department shall consent only to necessary emergency medical,  
18 dental, psychological, or psychiatric treatment so long as  
19 continued emergency custody continues.

20           Sec. 75. (1) A child in emergency or continued emergency  
21 custody shall not be held or placed in:

22           (a) An adult correctional facility;

23           (b) The secure youth confinement facility operated by the  
24 Department of Correctional Services;

25           (c) A youth rehabilitation and treatment center;

1           (d) A juvenile detention facility, except that a  
2 protected child may be held in such a facility for a period not to  
3 exceed five days if no other facility is reasonably available; or

4           (e) The custody of the office.

5           (2) Unless compelling reasons are demonstrated by clear  
6 and convincing evidence, a child's responsible adult may not  
7 request visitation during emergency custody or continued emergency  
8 custody.

9           (3) The court's order, whether granting or denying the  
10 request for continued emergency custody, shall be in writing and  
11 shall state the reasons therefor.

12           (4) Continued emergency custody proceedings may be  
13 conducted telephonically for good cause shown. If proceedings  
14 are conducted telephonically and testimony is taken, a recording  
15 shall be made of the proceeding. Any documents required by this  
16 subsection may be filed electronically for good cause shown.

17           (5) An order for continued emergency custody is not a  
18 final order.

19           Sec. 76. (1) No protected child shall be held in  
20 emergency custody longer than forty-eight hours without judicial  
21 review. If a court order granting continued emergency custody has  
22 not been issued within forty-eight hours after the child was taken  
23 into emergency custody without a court order, the child shall  
24 be released to the child's parent. Willful failure to release a  
25 protected child as required by this section shall constitute false

1 imprisonment in the second degree under section 28-315.

2 (2) If no request for continued emergency custody is  
3 filed within the time limits described in subsection (1) of this  
4 section and custody is restored to the protected child's parent,  
5 the county attorney shall provide the protected child's parent  
6 with a written report explaining why the protected child was taken  
7 into emergency custody. The report shall set forth the facts and  
8 circumstances creating the emergency. The report shall be provided  
9 to the parent within seven days after custody of the protected  
10 child was restored to the parent.

11 Sec. 77. (1) A petition alleging the child to be a child  
12 in need of state protection may be filed before the expiration  
13 of continued emergency custody. The filing of a petition and all  
14 subsequent proceedings are governed by sections 78 to 114 of this  
15 act.

16 (2) If no petition alleging the child to be a child  
17 in need of state protection is filed before the expiration of  
18 continued emergency custody, the protected child shall be released  
19 to the custody of the protected child's parent. Failure to release  
20 a protected child as required by this section shall constitute  
21 false imprisonment in the second degree under section 28-315.

22 Sec. 78. Parties to a court action involving an  
23 allegation that a child is a child in need of state protection are:

24 (1) The child;

25 (2) The child's guardian ad litem;

- 1           (3) The child's responsible adult;
- 2           (4) The department;
- 3           (5) The petitioner;
- 4           (6) The court appointed special advocate, if one has been  
5 appointed under the Court Appointed Special Advocate Act;
- 6           (7) The State Foster Care Review Board, in any case in  
7 which a protected child is in foster care;
- 8           (8) In the case of an Indian child as defined in the  
9 Nebraska Indian Child Welfare Act:
- 10           (a) The Indian custodian of the child and the Indian  
11 child's tribe through the tribal representative;
- 12           (b) Any person who intervenes as a party;
- 13           (c) Any person who is joined as a party; and
- 14           (d) Any other person deemed by the court to be important  
15 to a resolution that is in the best interests of the child; and
- 16           (9) In any termination of parental rights matter or  
17 permanent guardianship proceedings, the parties shall also include:
- 18           (a) The child's parents, including a noncustodial parent  
19 and an adjudicated or presumed father;
- 20           (b) The proposed guardian; and
- 21           (10) Any person entitled to notice of adoption proceeding  
22 involving the child.
- 23           Sec. 79. (1) An action seeking to have a child found to  
24 be in need of state protection shall be commenced by the filing of  
25 a petition in the office of the clerk of the juvenile court.

1           (2) A petition alleging a child to be a child in need of  
2 state protection shall be filed only by:

3           (a) The county attorney;

4           (b) The department; or

5           (c) With the consent of the county attorney, any party.

6           (3) A petition alleging a child to be a child in need of  
7 state protection shall include:

8           (a) The name of the court and county in which the action  
9 is brought;

10           (b) The names of the parties;

11           (c) A statement of the facts, in ordinary and concise  
12 language, showing the child to be a child in need of state  
13 protection;

14           (d) Whether the child is subject to the Nebraska Indian  
15 Child Welfare Act, and if so:

16           (i) The tribal affiliations of the child;

17           (ii) The specific actions taken to notify the child's  
18 tribes and the results of those contacts, including the  
19 names, addresses, titles, and telephone numbers of the persons  
20 contacted. The person shall attach to the motion as exhibits any  
21 correspondence with the tribes; and

22           (iii) The specific efforts that were made to comply with  
23 the placement preferences under the Nebraska Indian Child Welfare  
24 Act or the placement preferences of the appropriate Indian tribes;

25           (e) Whether any of the exceptionally endangering

1 circumstances listed in section 80 of this act exist and the facts  
2 supporting that allegation;

3 (f) A request that the court determine whether support  
4 will be ordered under sections 53 to 61 of this act; and

5 (g) A statement as to whether the protected child is in  
6 emergency or continued emergency custody. If the protected child is  
7 in emergency or continued emergency custody:

8 (i) A statement as to whether the petitioner is seeking  
9 continued custody of the protected child. If the petitioner is  
10 seeking continued emergency custody, the court shall set a hearing  
11 to determine the issue. The hearing regarding continued emergency  
12 custody shall be conducted as provided in section 74 of this act;

13 (ii) The date, time, and place of any hearing regarding  
14 the child's continued emergency custody and a statement that at  
15 such hearing the protected child's responsible adults have the  
16 rights listed in section 86 of this act; and

17 (iii) A copy of all documents filed with the court prior  
18 to filing of the petition.

19 (4) A petition alleging a child to be in need of state  
20 protection may include:

21 (a) A request for emergency custody of the child alleged  
22 to be a child in need of state protection;

23 (b) A request that a permanent guardian be appointed. A  
24 request for appointment of a permanent guardian may only be granted  
25 upon compliance with sections 126 to 129 of this act. A request

1 that a permanent guardian be appointed shall include the applicable  
2 statutory ground or grounds for termination of parental rights  
3 found in section 132 of this act, a summary statement of facts  
4 warranting a finding that termination of parental rights would not  
5 be in the child's best interests, and the qualifications of the  
6 proposed permanent guardian;

7 (c) A request for termination of parental rights to the  
8 child alleged to be a child in need of state protection. A request  
9 for termination of parental rights in a petition alleging a child  
10 to be a child in need of state protection may only be granted  
11 upon compliance with sections 130 to 133 of this act. A request  
12 for termination of parental rights shall include the applicable  
13 statutory ground or grounds found in section 132 of this act  
14 authorizing termination of parental rights and a summary statement  
15 of facts warranting a finding that termination of parental rights  
16 is in the child's best interests; and

17 (d) If necessary, a request for any other relief that is  
18 in the child's best interests.

19 (5) Every petition alleging a child to be a child in  
20 need of state protection shall be made on information and belief  
21 and shall be verified as provided in subdivision (7) of section  
22 49-1504.

23 (6) Upon the filing of a petition alleging a child to  
24 be a child in need of state protection, the court may appoint  
25 a guardian ad litem for the child and counsel for the child's

1 responsible adult.

2           Sec. 80. Exceptionally endangering circumstances are:

3           (1) The parent has committed, or has aided or abetted,  
4 attempted, conspired, or solicited to commit first or second  
5 degree murder, voluntary or involuntary manslaughter, motor vehicle  
6 homicide when it constitutes a felony as defined in section 28-306,  
7 or assisting suicide as defined in section 28-307 of any child;

8           (2) The parent has committed knowing or intentional child  
9 abuse of any child under section 28-707;

10           (3) The parent has committed an assault that resulted in  
11 serious bodily injury to any child;

12           (4) The parent has committed against any child sexual  
13 assault in the first or second degree as defined in section 28-319  
14 or 28-320 or sexual assault of a child as defined in section  
15 28-320.01;

16           (5) The parent has committed either false imprisonment in  
17 the first degree or kidnapping of any child;

18           (6) The child is an abandoned child;

19           (7) The parent has subjected any child to torture or  
20 chronic abuse. Torture means intentionally or knowingly inflicting  
21 either physical or serious mental injury for any prolonged period,  
22 and chronic means lasting a long time or recurring often;

23           (8) The parental rights to any child of the parent have  
24 been terminated involuntarily; or

25           (9) The parent of the child is found by the court

1 to be mentally or developmentally unable to discharge parental  
2 responsibilities and to be unable to discharge parental  
3 responsibilities in the foreseeable future. The court shall appoint  
4 a guardian ad litem to represent the parent in the proceeding  
5 if mental or developmental disability is alleged to be an  
6 exceptionally endangering circumstance.

7           Sec. 81. (1) Every party to an action seeking to have a  
8 child found by the court to be a child in need of state protection  
9 shall be served with a summons and a copy of the petition. The  
10 court shall endorse on the summons that the proceeding is one to  
11 find a child to be a child in need of state protection, shall set  
12 the time and place for an initial hearing, and shall cause service  
13 to be made.

14           (2) Except as provided in subsection (3) of this section,  
15 service shall be made in accordance with sections 25-505.01 to  
16 25-514.01 and:

17           (a) Personal or residence service under section 25-505.01  
18 shall be effected at least seventy-two hours before the time set  
19 for a hearing; and

20           (b) Certified mail service under section 25-505.01 shall  
21 be mailed at least five days before the date set for a hearing.

22           (3) Substitute and constructive notice may be permitted  
23 by the court, as provided in sections 25-517.02 to 25-527 and:

24           (a) Authorization of substitute or constructive service  
25 shall not expand the time a protected child can be held in custody

1 without judicial review; and

2 (b) When the court authorizes substitute or constructive  
3 service, the court shall set hearings so parties who are the  
4 subject of such service have adequate time to prepare, consistent  
5 with the best interests of the child and the purposes of the  
6 Nebraska Juvenile Code.

7 (4) A party's voluntary appearance is the equivalent to  
8 service, except that a child's appearance is not the equivalent of  
9 service.

10 (5) A party may, either in writing or in open court  
11 on the record, waive the requirement for seventy-two-hour notice  
12 pursuant to subdivision (2)(a) of this section if the court finds  
13 the waiver to be in the child's best interests and:

14 (a) If a child is twelve years of age or older, the child  
15 may waive his or her right to seventy-two-hour notice if the child  
16 has consulted with counsel or a guardian ad litem and the court  
17 finds such waiver to be knowing and voluntary. The court shall  
18 personally address the child and the child's counsel or guardian ad  
19 litem before making such a finding; and

20 (b) If a child is under twelve years of age, the child's  
21 counsel or guardian ad litem may waive the child's right to  
22 seventy-two-hour notice. If the child is seven years old or older,  
23 the child's counsel or guardian ad litem shall confer with the  
24 child prior to entering a waiver on the child's behalf.

25 Sec. 82. The purposes of the initial hearing are to:

- 1           (1) Protect the best interests of the protected child;  
2           (2) Insure that adequate notice has been provided to all  
3 parties;  
4           (3) Advise all parties of their rights;  
5           (4) Appoint counsel and a guardian ad litem when  
6 appropriate;  
7           (5) Determine continued custody and visitation;  
8           (6) Determine support; and  
9           (7) Set an adjudication hearing.

10           Sec. 83. (1) No sooner than seventy-two hours nor later  
11 than five days after service is effected as required under section  
12 81 of this act, the court shall hold an initial hearing regarding  
13 the petition.

14           (2) The initial hearing shall be entirely on the record.

15           (3) All parties shall be present at the initial hearing.  
16 If a party has received service as required and does not appear at  
17 the initial hearing, the hearing shall not be continued unless the  
18 court finds a continuance is required in the interests of justice.

19           Sec. 84. (1) Upon prior application by any party, or  
20 on its own motion, the court may excuse the child in need of  
21 state protection from attending the hearing. In deciding whether to  
22 excuse the protected child, the court shall consider:

23           (a) Whether the protected child will be represented at  
24 the initial hearing by counsel or by a guardian ad litem;

25           (b) The wishes of the child;

1           (c) The child's age and understanding of the proceedings;

2           (d) Any potential for physical, emotional, or  
3 psychological trauma to the protected child arising from the  
4 protected child's physical presence at the hearing; and

5           (e) The importance of the protected child's physical  
6 presence to a just and fair outcome of the initial hearing.

7           (2) Any order excusing or denying a request for excusal  
8 of a protected child's attendance at an initial hearing shall be in  
9 writing and shall include findings of fact and conclusions of law.

10           (3) An order excusing or denying a request for excusal of  
11 a protected child's attendance at an initial hearing is not a final  
12 order.

13           Sec. 85. (1) No party may call a protected child to  
14 testify at an initial hearing without the consent of the child and  
15 the child's guardian ad litem. Consent of a child shall be found  
16 by the court to be knowing and voluntary. If the child is not  
17 capable of giving consent, counsel for the child has the authority  
18 to consent on the child's behalf. The court's findings shall be in  
19 writing and shall include findings of fact and conclusions of law.

20           (2) If the court requires a protected child to testify  
21 at an initial hearing, the court may order or allow the use of  
22 alternative modes of testimony.

23           Sec. 86. At the initial hearing, the parties shall  
24 be advised of their rights. Nothing in this section shall be  
25 construed as denying, limiting, or restricting any rights existing

1 under either the Constitution of Nebraska or the United States  
2 Constitution. Unless otherwise specified, all parties to any  
3 proceeding concerning a child alleged to be a child in need  
4 of state protection shall have the right to:

5 (1) Receive notice;  
6 (2) Have legal representation. The department shall be  
7 represented by the county attorney at all proceedings regarding  
8 a protected child as required in section 23-1201. If a conflict  
9 arises between the department and the county attorney regarding the  
10 prosecution of any case involving a protected child, an attorney  
11 employed or retained by the department may enter an appearance and  
12 represent the department's interests in the case;

13 (3) Testify;  
14 (4) Remain silent as to any matter of inquiry if the  
15 testimony sought to be elicited might tend to incriminate the  
16 party;

17 (5) Be present at all hearings unless excluded or excused  
18 as provided elsewhere in the Nebraska Juvenile Code;

19 (6) Conduct discovery;

20 (7) Bring motions;

21 (8) Subpoena witnesses;

22 (9) Argue in support of or against the petition;

23 (10) Present evidence;

24 (11) Cross-examine witnesses;

25 (12) Request trial court review of the disposition upon a

1 showing either of a substantial change of circumstances or that the  
2 disposition was inadequate;

3 (13) Bring post-adjudication or post-disposition motions;

4 (14) Appeal final orders of the court; and

5 (15) Any other rights as set forth in statute.

6 Sec. 87. (1) If the child in need of state protection  
7 is not represented by an attorney, the court shall determine the  
8 child's preferences regarding the proceedings if the child is of  
9 suitable age to express a preference. Upon request of a protected  
10 child thirteen years of age or older, the court shall appoint  
11 counsel for such child.

12 (2) The court shall determine whether appointment of  
13 counsel for the child in need of state protection is necessary  
14 under all the circumstances, including the child's expressed  
15 preferences, the issues presented in the petition, and whether  
16 the child's rights can adequately be protected by the guardian ad  
17 litem.

18 (3) If the protected child desires counsel but is unable  
19 to employ counsel, the court may appoint counsel to represent the  
20 child if the court finds that such an appointment is necessary.

21 (4) The court may, on its own motion, or the motion of  
22 any party, appoint counsel for a protected child at any stage of  
23 the proceedings.

24 (5) The court may terminate an appointment of counsel for  
25 a protected child under thirteen years of age if the court

1 determines the protected child's rights are being adequately  
2 protected by the protected child's guardian ad litem. An order  
3 terminating the appointment of counsel shall be in writing and  
4 shall include findings of fact and conclusions of law. An order  
5 terminating appointment of counsel is a final order and may be  
6 appealed as provided in section 217 of this act.

7 (6) Counsel for the child shall not also act as the  
8 child's guardian ad litem.

9 Sec. 88. At the initial hearing:

10 (1) After advisement of rights as required in section  
11 86 of this act, the court may accept an answer of admission, no  
12 contest, or denial from the protected child's parent to all or any  
13 part of the petition;

14 (2) The protected child's parent may remain mute. In such  
15 case, the court shall enter an answer of denial for the parent;

16 (3) If the answer is admission or no contest, the court  
17 shall insure the answer is knowing and voluntary and that a factual  
18 basis exists for the answer before accepting it;

19 (4) If the court accepts the answer of admission or no  
20 contest, the allegations in the petition shall be found to be true  
21 and an adjudication based on the answer shall be entered finding  
22 the child to be a child in need of state protection; and

23 (5) Upon the entry of adjudication finding the child to  
24 be a child in need of state protection based on an answer of  
25 admission or no contest, the court shall:

1           (a) Order the department to prepare and file with the  
2 court a proposed case plan for the protected child;

3           (b) Set a disposition hearing; and

4           (c) Enter any other orders required by section 90 of this  
5 act.

6           Sec. 89. (1)(a) If the answer is a denial, the court  
7 shall set an adjudication hearing. If the parties are prepared, the  
8 adjudication hearing may be held immediately. Otherwise, the court  
9 shall allow a reasonable time for preparation.

10           (b) If the protected child is in an out-of-home  
11 placement, the adjudication hearing shall be held no more than  
12 thirty days after the child was first removed from the child's  
13 home.

14           (c) If the protected child is living with the child's  
15 parent, the adjudication hearing shall be held no more than sixty  
16 days after the petition was filed.

17           (2) The court may, consistent with the best interests  
18 of the child, grant reasonable continuances of the adjudication  
19 hearing for the following reasons:

20           (a) Newly discovered evidence;

21           (b) Unavoidable delay in obtaining critical witnesses or  
22 evidence;

23           (c) Any party experiences a personal emergency; or

24           (d) Any other reason in the interests of justice which  
25 furtheres the best interests of the child.

1           (3) No adjudication hearing shall be held more than one  
2 hundred twenty days after the date the petition is filed. If  
3 an adjudication hearing is not held within one hundred twenty  
4 days after the date the petition is filed, the petition shall be  
5 dismissed and the protected child returned to the custody of the  
6 protected child's parent. Continuances granted under subsection (2)  
7 of this section do not extend this time.

8           Sec. 90. Prior to adjourning the initial hearing, the  
9 court shall:

10           (1) Determine the issues of continued custody and  
11 placement of the protected child as follows:

12           (a) The protected child shall be placed with his or her  
13 parent unless:

14           (i) Reasonable efforts to preserve or reunify the family  
15 have been made and were unsuccessful or such reasonable efforts are  
16 not required because exceptionally endangering circumstances listed  
17 in section 80 of this act are present;

18           (ii) The court determines the least restrictive and least  
19 intrusive placement consistent with the safety and well-being of  
20 the child is not with his or her parent; and

21           (iii) The court finds there is probable cause to believe  
22 any or all of the allegations of the petition are true;

23           (b) A finding that there is not probable cause to believe  
24 any or all of the allegations of the petition are true does not  
25 require dismissal of the petition; and

1           (c) If the court orders continued out-of-home placement  
2 of the protected child, the child shall not be placed in or  
3 committed to an adult correctional facility, the secure youth  
4 confinement facility operated by the Department of Correctional  
5 Services, a juvenile detention facility, a youth rehabilitation and  
6 treatment center, or the office;

7           (2) Set a schedule of visitation if the protected child  
8 is not placed with his or her parent. In determining the schedule  
9 of visitation, the health and safety of the child are of paramount  
10 concern;

11           (3) Set conditions of visitation or placement requiring  
12 the parent to:

13           (a) Abide by any conditions the court finds necessary  
14 under the circumstances to:

15           (i) Protect the health and safety of the protected child;

16           (ii) Insure the presence of the protected child and the  
17 child's parent at all court hearings; and

18           (iii) Effect reunification if reunification appears to be  
19 a reasonable goal;

20           (b) Abide by any agreements entered into between the  
21 parent and any state agency regarding the care of the protected  
22 child named in the petition. The court shall determine that such  
23 agreements are in the protected child's best interests, are in  
24 accordance with parental rights, and were knowingly and voluntarily  
25 agreed to by the protected child's parent. Such agreements may

1 require the parent to:

2 (i) Eliminate the specified conditions constituting or  
3 contributing to the problems which led to the filing of the  
4 petition;

5 (ii) Provide adequate food, shelter, clothing, and  
6 medical care and for other needs of the protected child;

7 (iii) Give adequate services to the protected child in  
8 the home;

9 (iv) Cease and desist from specified conduct and  
10 practices which are injurious to the welfare of the protected  
11 child; and

12 (v) Resume proper responsibility for the care and  
13 services of the protected child;

14 (4) Determine whether support should be ordered under  
15 sections 53 to 61 of this act and, if so, enter an order regarding  
16 support;

17 (5) Appoint counsel for the protected child and the  
18 protected child's parent if necessary; and

19 (6) Appoint a guardian ad litem for the protected child  
20 if one has not been previously appointed.

21 Sec. 91. The purposes of the adjudication are to protect  
22 the best interests of the protected child and to determine whether  
23 the allegations contained in the petition are true.

24 Sec. 92. (1) The burden of proof is on the party filing  
25 the petition. The standard of proof is a preponderance of the

1 evidence, unless the Nebraska Indian Child Welfare Act applies.

2 (2) The rules of evidence shall apply at an adjudication.

3 (3) The adjudication shall be entirely on the record.

4 Sec. 93. All parties shall be present at the  
5 adjudication. If a party has received service as required and does  
6 not appear at the adjudication, the hearing shall not be continued  
7 unless:

8 (1) The court finds the absence is justified;

9 (2) A continuance is in the child's best interests; and

10 (3) The continuance is required in the interests of  
11 justice.

12 Sec. 94. (1) Upon application by any party, or on its own  
13 motion, the court may excuse the child in need of state protection  
14 from attending the adjudication. In deciding whether to excuse the  
15 protected child, the court shall consider:

16 (a) Whether the protected child will be represented at  
17 the adjudication by counsel or by a guardian ad litem;

18 (b) The wishes of the child;

19 (c) The child's age and understanding of the proceedings;

20 (d) Any potential for physical, emotional, or  
21 psychological trauma to the protected child arising from the  
22 protected child's physical presence at the hearing; and

23 (e) The importance of the protected child's physical  
24 presence to a just and fair outcome of the adjudication.

25 (2) Any order excusing or denying a request for excusal

1 of a protected child's attendance at an adjudication shall be in  
2 writing. The order shall contain findings of fact and conclusions  
3 of law.

4 (3) An order granting or denying a request for excusal of  
5 a protected child's attendance at an adjudication is not a final  
6 order.

7 Sec. 95. (1) (a) Any party may call a protected child to  
8 testify at an adjudication.

9 (b) Any party may ask that the protected child be excused  
10 from testifying at the adjudication hearing.

11 (c) In deciding whether to excuse the protected child  
12 from testifying, the court shall consider:

13 (i) The child's age and understanding of the proceedings;

14 (ii) Any potential for physical, emotional, or  
15 psychological trauma to the protected child arising from the  
16 protected child's physical presence at the hearing; and

17 (iii) The importance of the protected child's testimony  
18 to a just and fair outcome of the adjudication.

19 (d) The court's findings shall be in writing and  
20 supported by findings of fact and conclusions of law.

21 (2) If the court requires a protected child to testify at  
22 an adjudication, the court may order the use of alternative modes  
23 of testimony.

24 (3) An order granting or denying a request for excusing a  
25 protected child's testimony at an adjudication is a final order and

1 may be appealed as provided in section 217 of this act.

2           Sec. 96. If any or all of the allegations in the petition  
3 are found to be true, the court shall find the child to be a child  
4 in need of state protection and shall:

5           (1) Order the department to prepare and file with the  
6 court a proposed case plan for the protected child. The proposed  
7 case plan for a protected child sixteen years of age or older shall  
8 include a proposal describing programs and services designed to  
9 assist the protected child in acquiring independent living skills.  
10 The proposed case plan shall be completed within fourteen days of  
11 the adjudication hearing and shall be made available to all parties  
12 no less than five days prior to the disposition hearing;

13           (2) Set a disposition hearing so that it occurs no more  
14 than thirty days after the date the court found the child to be  
15 a child in need of state protection. The disposition hearing may,  
16 consistent with the interests of justice and best interests of  
17 the child, be continued for a reasonable time if there is newly  
18 discovered evidence or unavoidable delays in obtaining critical  
19 witnesses or evidence, when any party experiences a personal  
20 emergency, or for any other reason in the interests of justice.  
21 In no case may a disposition hearing be held more than sixty days  
22 after the date the court found the child to be a child in need of  
23 state protection. If a disposition hearing is not held within sixty  
24 days after the date the court found the child to be a child in need  
25 of state protection, the petition shall be dismissed and the case

1 closed;

2 (3) Review the issue of continued custody and placement  
3 of the protected child. The protected child shall be placed with  
4 his or her parent unless:

5 (a) Reasonable efforts to preserve or reunify the family  
6 have been made and were unsuccessful or such reasonable efforts are  
7 not required because exceptionally endangering circumstances listed  
8 in section 80 of this act are present; and

9 (b) The court determines the least restrictive and least  
10 intrusive placement consistent with the safety and well-being of  
11 the child is not with his or her parent;

12 (4) Set a schedule of visitation if the protected child  
13 is not placed with his or her parent. In determining the schedule  
14 of visitation, the health and safety of the child are of paramount  
15 concern; and

16 (5) Set conditions of visitation or placement requiring  
17 the parent to:

18 (a) Abide by any conditions the court finds necessary  
19 under the circumstances to:

20 (i) Protect the health and safety of the protected child;

21 (ii) Insure the presence of the protected child and the  
22 child's parent at all court hearings; and

23 (iii) Effect reunification if reunification appears to be  
24 a reasonable goal; and

25 (b) Abide by any agreements entered into between the

1 parent and any state agency regarding the care of the protected  
2 child named in the petition. The court shall determine whether such  
3 agreements are in the protected child's best interests and are in  
4 accordance with parental rights and were knowingly and voluntarily  
5 agreed to by the protected child's parent. Such agreements may  
6 require the parent to:

7 (i) Eliminate the specified conditions constituting or  
8 contributing to the problems which caused the child to be a child  
9 in need of state protection;

10 (ii) Provide adequate food, shelter, clothing, and  
11 medical care and for other needs of the protected child;

12 (iii) Give adequate services to the protected child in  
13 the home;

14 (iv) Cease and desist from specified conduct and  
15 practices which are injurious to the welfare of the protected  
16 child; or

17 (v) Resume proper responsibility for the care and  
18 services of the protected child.

19 Sec. 97. (1) If the court finds exceptionally endangering  
20 circumstances exist as listed in section 80 of this act, the court  
21 shall order the department to prepare a permanency plan.

22 (2) The court shall set a hearing to review the  
23 permanency plan, and if appropriate, to determine whether parental  
24 rights should be terminated pursuant to sections 130 to 133 of this  
25 act.

1           Sec. 98. If none of the allegations in the petition are  
2 found to be true, the petition shall be dismissed and custody of  
3 the protected child returned to his or her parent if the child  
4 had been in emergency custody, continued emergency custody, or an  
5 out-of-home placement.

6           Sec. 99. (1) Except as provided in subsection (5) of  
7 section 106 of this act, an order adjudicating a child to be in  
8 need of state protection is not a final order.

9           (2) An order dismissing a petition alleging a child to be  
10 in need of state protection is a final order and may be appealed as  
11 provided in section 217 of this act.

12          Sec. 100. The purposes of the disposition hearing are to  
13 determine:

14           (1) Who shall have custody of the protected child;

15           (2) What, if any, protective services are necessary for  
16 the protected child and his or her family in order to eliminate the  
17 specified conditions or circumstances which caused the child to be  
18 a child in need of state protection; and

19           (3) If exceptionally endangering circumstances listed in  
20 section 80 of this act are present, what the permanency plan shall  
21 be for the protected child.

22          Sec. 101. (1) The disposition hearing shall be entirely  
23 on the record.

24           (2) The rules of evidence shall not apply at a  
25 disposition hearing.

1           (3) All parties shall be present at the disposition  
2 hearing. If a party has received notice as required and does not  
3 appear, the hearing shall not be continued unless the court finds  
4 a continuance is required in the interests of justice and that a  
5 continuance is in the best interests of the protected child.

6           Sec. 102. (1) Upon prior application by any party, or on  
7 its own motion, the court may excuse the child in need of state  
8 protection from attending the disposition hearing. In deciding  
9 whether to excuse the protected child, the court shall consider:

10           (a) Whether the protected child will be represented by  
11 counsel or by a guardian ad litem;

12           (b) The wishes of the protected child;

13           (c) The protected child's age and understanding of the  
14 proceedings;

15           (d) Any potential for physical, emotional, or  
16 psychological trauma to the protected child arising from the  
17 protected child's physical presence at the hearing; and

18           (e) The importance of the protected child's physical  
19 presence to a just and fair outcome of the disposition.

20           (2) Any order excusing or denying a request for excusal  
21 of a protected child's attendance at the disposition hearing shall  
22 be in writing. The order shall contain findings of fact and  
23 conclusions of law.

24           (3) An order granting or denying a request for excusal of  
25 a protected child's attendance at the disposition hearing is not a

1 final order.

2           Sec. 103. (1) Any party may call a protected child to  
3 testify at the disposition hearing.

4           (2) Any party may ask that the protected child be excused  
5 from testifying.

6           (3) In deciding whether to excuse the protected child,  
7 the court shall consider:

8           (a) The protected child's age and understanding of the  
9 proceeding;

10           (b) Any potential for physical, emotional, or  
11 psychological trauma to the protected child arising from the  
12 protected child's physical presence at the hearing; and

13           (c) The importance of the protected child's testimony to  
14 a just and fair outcome of the disposition.

15           (4) The court's findings shall be in writing and shall be  
16 supported by findings of fact and conclusions of law.

17           (5) If the court requires a protected child to testify at  
18 the disposition hearing, the court may order the use of alternative  
19 modes of testimony.

20           (6) An order granting or denying a request for excusing  
21 a protected child's testimony at the disposition hearing is not a  
22 final order.

23           Sec. 104. A child in need of state protection shall not,  
24 as part of a disposition order, be placed in or committed to an  
25 adult correctional facility, a secure youth confinement facility

1 operated by the Department of Correctional Services, a juvenile  
2 detention facility, a youth rehabilitation and treatment center, or  
3 the office.

4           Sec. 105. (1) (a) The case plan submitted by the  
5 department is presumed to be in the protected child's best  
6 interests. A case plan is in the child's best interests if it  
7 provides the most appropriate protective services in the least  
8 restrictive setting. This presumption is rebuttable.

9           (b) If any party proves by a preponderance of the  
10 evidence that the department's plan is not in the protected child's  
11 best interests, the court shall disapprove the department's plan.

12           (c) If the court disapproves the department's plan, the  
13 court shall:

14           (i) Modify the case plan;

15           (ii) Order that an alternative case plan be developed; or

16           (iii) Implement another case plan that is in the child's  
17 best interests.

18           (d) If the court disapproves the department's case plan,  
19 any party may appeal such finding to the juvenile review panel  
20 pursuant to sections 109 to 114 of this act.

21           (e) The department shall pay the cost of services ordered  
22 by the court pursuant to subdivisions (1) (c) (i) and (ii) of this  
23 section.

24           (2) Prior to ordering a case plan, the court shall make a  
25 finding that each term, condition, and consequence of the case plan

1 has been thoroughly explained to and is understood by each party or  
2 a party's guardian ad litem.

3 (3) The court need not order a case plan if the  
4 court finds that exceptionally endangering circumstances listed  
5 in section 80 of this act are present. The court shall instead  
6 order only a permanency plan in accordance with section 97 of this  
7 act.

8 Sec. 106. (1) After reviewing the department's proposed  
9 case plan and considering the evidence, the court may, in its  
10 disposition order:

11 (a) Permit the protected child to remain in his or her  
12 own home subject to state services;

13 (b) Place the child with:

14 (i) A suitable facility or institution;

15 (ii) Inpatient or outpatient treatment at a mental health  
16 center or mental health program;

17 (iii) A reputable citizen of good moral character;

18 (iv) An association willing to receive the child,  
19 embracing in its objects the purpose of caring for or obtaining  
20 homes for such children, which association is accredited as  
21 provided in section 254 of this act;

22 (v) A suitable family; or

23 (vi) The department;

24 (c) Terminate parental rights, if requested in the  
25 petition, a supplemental petition, or motion, and if the court

1 finds by clear and convincing evidence:

2 (i) A statutory ground for termination of parental  
3 rights, as listed in section 132 of this act;

4 (ii) One or more exceptionally endangering circumstances  
5 listed in section 80 of this act exist; and

6 (iii) That termination of parental rights is in the  
7 protected child's best interests; or

8 (d) Appoint a permanent guardian, if requested in the  
9 petition, a supplemental petition, or motion and if the court finds  
10 by the appropriate level of proof all of the following:

11 (i) A statutory ground for termination of parental  
12 rights, as listed in section 132 of this act;

13 (ii) One or more exceptionally endangering circumstances  
14 listed in section 80 of this act exist;

15 (iii) That termination of parental rights is not in the  
16 protected child's best interests; and

17 (iv) That the proposed permanent guardian is qualified as  
18 required in section 129 of this act.

19 (2) The court shall enter any other orders necessary to  
20 fulfill the case plan, including, but not limited to:

21 (a) Orders requiring parties to cooperate with the case  
22 plan;

23 (b) Restraining orders controlling the conduct of any  
24 party likely to frustrate the achievement of the case plan; and

25 (c) Visitation orders.

1           (3) Except as provided in section 105 of this act,  
2 the court cannot order specific placements, specific services, or  
3 specific service providers in the case plan.

4           (4) In making its disposition order, the health and  
5 safety of the child shall be of paramount concern to the court.

6           (5) Upon the court's filing of a written disposition  
7 order, the adjudication order becomes a final order. The  
8 disposition order is a final order.

9           Sec. 107. (1) The court, consistent with section 106 of  
10 this act, shall order the type of protective services it deems  
11 necessary.

12           (2)(a) The department shall select the provider of the  
13 type of protective services ordered by the court.

14           (b) If any party objects to the provider selected by  
15 the department, that party may request judicial review of the  
16 department's selection.

17           (c) The party seeking review of the department's  
18 selection has the burden of proving by a preponderance of the  
19 evidence that the department's selection is not in the child's best  
20 interests.

21           (d) The court may sustain or overrule the department's  
22 selection. If the court overrules the department's selection, the  
23 court shall select another provider.

24           (e) The court's decision regarding the requested review  
25 shall be in writing and shall include findings of fact and

1 conclusions of law.

2 (f) A decision overruling the department's selection of a  
3 provider is a final order. A decision sustaining the department's  
4 selection is not a final order.

5 (g) Except as provided in section 105 of this act,  
6 the department is not responsible for the cost of any protective  
7 services if the department did not select the provider of such  
8 protective services or the protective service was not selected by  
9 the court as provided in this section.

10 Sec. 108. (1) Except as provided in subsections (2) and  
11 (3) of this section, if the court orders removal or continued  
12 removal of the protected child from his or her home at the  
13 disposition hearing, the court shall order the department to make  
14 reasonable efforts to provide reunification services to the child  
15 and the child's parent to facilitate reunification of the family.

16 (2) If the court determines that such reasonable efforts  
17 to reunify a child with the child's parent would not be successful,  
18 the court shall not order reunification services. In addition  
19 to any other relevant factors, the court shall consider the  
20 following factors in determining if reunification efforts would be  
21 successful:

22 (a) Testimony by a competent professional regarding  
23 whether efforts to modify the parent's behavior are likely to  
24 be successful;

25 (b) Whether the parent has expressed an interest in

1 reunification with the child; and

2 (c) Whether the parent has demonstrated diligent efforts.

3 (3) If the court finds any of the following circumstances  
4 by clear and convincing evidence, a presumption exists that  
5 reunification services should not be provided:

6 (a) A party to the action provides a verified affidavit  
7 that states that a reasonably diligent search has failed to  
8 identify and locate the parent within three months after the filing  
9 of the petition alleging the child to be a child in need of state  
10 protection;

11 (b) The parent is suffering from a mental illness or  
12 mental deficiency of such magnitude that it renders the parent  
13 incapable of benefiting from the reunification services. This  
14 finding shall be based on evidence from a psychologist or physician  
15 that establishes that, even with reunification services, the parent  
16 is unlikely to be capable of adequately caring for the protected  
17 child within twelve months after the date of the disposition order;

18 (c) The protected child previously has been removed and  
19 adjudicated a protected child due to physical or sexual abuse,  
20 returned to the custody of the parent after the adjudication, and  
21 then subsequently removed within eighteen months due to additional  
22 physical or sexual abuse;

23 (d) The parent has been convicted of murder or  
24 manslaughter of another child or of aiding or abetting or  
25 attempting, conspiring, or soliciting to commit murder or

1 manslaughter of another child;

2 (e) The parent inflicted serious injury on the protected  
3 child;

4 (f) A person who the parent reasonably should have known  
5 was likely to have engaged in such conduct inflicted serious injury  
6 on the protected child;

7 (g) The parent's parental rights to another child have  
8 been terminated and the parent has not successfully addressed the  
9 issues that led to the termination; or

10 (h) After a finding that a child is a child in need of  
11 state protection, all of the following are true:

12 (i) A child has been removed from the parent on at least  
13 two previous occasions;

14 (ii) Reunification services were offered or provided to  
15 the parent after the prior removals; and

16 (iii) The parent is currently unable for any reason to  
17 discharge parental responsibilities.

18 (4) A disposition order removing a protected child from  
19 his or her home shall include written findings of fact that:

20 (a) Continuation in the home would be contrary to the  
21 health, safety, or welfare of such protected child; and

22 (b) Reasonable efforts to preserve and reunify the family  
23 have been made if required.

24 Sec. 109. Sections 109 to 114 of this act provide  
25 the exclusive method for expedited review of disposition orders

1 described in section 111 of this act by a juvenile review panel.  
2 Nothing in such sections shall otherwise limit the right of a party  
3 to appeal other final orders regarding protected children pursuant  
4 to section 217 of this act.

5           Sec. 110. (1) A juvenile review panel shall consist of  
6 three county court or separate juvenile court judges, one of whom  
7 shall be designated as the presiding judge. All judges of the  
8 county court and separate juvenile court shall be eligible to serve  
9 on the juvenile review panel, except that no judge may serve on  
10 a juvenile review panel reviewing a case originally heard by that  
11 judge. The Supreme Court shall provide for the appointment of a  
12 juvenile review panel after receiving a request for review from  
13 the court entering the order for which expedited review is being  
14 sought.

15           (2) A juvenile review panel may hear a case in the county  
16 where the case was originally decided or at some other location  
17 that is convenient to the juvenile review panel.

18           (3) The juvenile review panel shall use the courtroom,  
19 office facilities, and staff of the county court or separate  
20 juvenile court where the juvenile review panel is hearing the case.  
21 The presiding judge shall be responsible for arranging the date  
22 and place of the hearing, for causing notice of the hearing to be  
23 given, and for preparing the disposition of the juvenile review  
24 panel.

25           Sec. 111. A juvenile review panel shall only review a

1 disposition of a court when the court makes an order directing the  
2 implementation of a case plan different than the case plan prepared  
3 by the department and a party believes that the court's disposition  
4 order is not in the best interests of the protected child.

5           Sec. 112. A party seeking to have a disposition described  
6 in section 111 of this act reviewed has ten days after the written  
7 disposition order is filed by the court to file a request for  
8 review by a juvenile review panel. Such request for review shall be  
9 filed with the clerk of the court where the action was originally  
10 heard. Upon receipt of the request for review, the clerk of the  
11 court shall forward a copy of the request to the Clerk of the  
12 Supreme Court.

13           Sec. 113. (1) A juvenile review panel shall review the  
14 disposition of a court order de novo on the record. The record  
15 shall consist of a transcript and bill of exceptions that shall be  
16 requested and prepared as in appeals from the county court to the  
17 district court. The record shall be filed with the judicial review  
18 panel no later than thirty days after the date the clerk of the  
19 court where the action was originally heard received the request.

20           (2) A juvenile review panel shall affirm the disposition  
21 order unless it is shown by a preponderance of the evidence that  
22 the disposition was not in the best interests of the protected  
23 child.

24           (3) If the review panel finds the contested disposition  
25 not in the best interests of the child:

- 1           (a) The panel may:
- 2           (i) Modify either the court-ordered case plan or the  
3 original case plan of the department; or
- 4           (ii) Substitute the department's original case plan for  
5 the contested court-ordered case plan; and
- 6           (b) The panel shall remand the case back to the court  
7 with directions to implement the case plan approved or entered by  
8 the juvenile review panel.
- 9           (4) A review of a contested disposition order by a  
10 juvenile review panel shall stay the enforcement of the contested  
11 disposition order.
- 12           (5) The review by the juvenile review panel shall be  
13 as expeditious as possible, and a decision shall be made within  
14 thirty days after receiving the bill of exceptions from the court  
15 stenographer.
- 16           (6) The juvenile review panel's decision is a final order  
17 and is binding on the parties, except that the final order may be  
18 appealed as provided in section 114 of this act.
- 19           Sec. 114. (1) Any party may appeal from any final order  
20 entered by the juvenile review panel.
- 21           (2) Such order shall be reviewed by the Court of Appeals  
22 or the Supreme Court within the same time and in the same manner  
23 prescribed by law for review of an order of the district court.
- 24           (3) The appellate court shall review the decision of  
25 the juvenile review panel de novo on the record submitted to the

1 juvenile review panel.

2 (4) An appeal made pursuant to this section shall not  
3 stay any order of a juvenile review panel.

4 Sec. 115. All proceedings regarding court-ordered  
5 permanency options for children are governed by sections 115 to  
6 133 of this act.

7 Sec. 116. (1) When children are removed from their home  
8 for any reason, it is the policy of the state:

9 (a) To make reasonable efforts to preserve the family  
10 and to reunite the child with his or her family in a timeframe  
11 appropriate to the age and developmental needs of the child so long  
12 as the best interests of the child, the health and safety of the  
13 child being of paramount concern, and the needs of the child have  
14 been given primary consideration in making a determination whether  
15 or not reunification is possible;

16 (b) When a child cannot remain with his or her parents,  
17 to give preference to relatives as a placement resource;

18 (c) To minimize the number of placement changes for  
19 children in out-of-home care so long as the needs, health, safety,  
20 and best interests of the child in care are considered; and

21 (d) When families cannot be reunited and when active  
22 parental involvement is absent, to aggressively pursue adoption.

23 (2) If adoption is not in the best interests of the child  
24 or is not reasonably possible, other permanent settings shall be  
25 pursued. Preference shall be given to relatives for the permanent

1 placement of the child. The health, safety, and best interests of  
2 the child shall always be of paramount concern.

3 (3) In light of children's developmental needs and sense  
4 of time, permanency planning efforts for children shall begin  
5 as soon as a child enters foster care and shall be expedited  
6 by the timely and effective provision of reunification services  
7 to families. Permanency planning decisions, including decisions  
8 regarding the initiation of proceedings to terminate parental  
9 rights, shall be made within specified time limits.

10 Sec. 117. (1) A foster care review hearing is a review of  
11 the placement of a child in foster care to determine:

12 (a) Whether the child's physical, psychological, and  
13 sociological needs are being met;

14 (b) Whether the department is providing reasonable  
15 efforts to return the child to the child's home; and

16 (c) Whether the child's parents are engaged in diligent  
17 efforts.

18 (2) The health and safety of the child are of paramount  
19 concern in a foster care review hearing.

20 (3) The court having jurisdiction over a child in foster  
21 care shall conduct a foster care review hearing no later than  
22 six months after the date a child entered foster care. The court  
23 may reaffirm the placement of the child in foster care or direct  
24 another disposition of the child that the court determines to be  
25 in the child's best interests. Foster care review hearings shall

1 be conducted on the record. The rules of evidence shall not apply  
2 at a review hearing. The recommendations of the State Foster Care  
3 Review Board concerning such child shall be included in the record.  
4 The court shall review a case on the record more often than  
5 every six months and at any time following the child's original  
6 placement in foster care of the child if any party, including the  
7 state board, requests a hearing in writing specifying the reasons  
8 for the review. Members of the state board or its designated  
9 representative may attend and be heard at any review hearing and  
10 may participate through counsel at the hearing with the right  
11 to call and cross-examine witnesses and present arguments to the  
12 court.

13           Sec. 118. (1) When required by a disposition order, the  
14 department shall provide protective services designed to either  
15 prevent a child's removal or to permit a child to be safely  
16 returned home.

17           (2) The department shall make good faith efforts to  
18 include the family when determining which protective services are  
19 necessary and appropriate.

20           Sec. 119. When required by a disposition order, parents  
21 shall make diligent efforts to prevent a child's removal from the  
22 child's home or to permit a child to be returned safely home.

23           Sec. 120. (1) When returning a child to the family's  
24 home is consistent with the safety of the child, the reasonable  
25 efforts required of the department are the provision or delivery of

1 protective services designed to:

2 (a) Preserve and unify the family prior to the  
3 out-of-home placement of a child;

4 (b) Eliminate the need for removal of the child from his  
5 or her home; and

6 (c) Make it possible for the child to safely return to  
7 the family's home.

8 (2) When returning the child to the family's home is not  
9 consistent with the safety of the child or not possible for other  
10 reasons, the reasonable efforts required by the department shall  
11 include efforts made in a timely manner to finalize a permanency  
12 plan for the child.

13 (3) In the court's determination of whether the  
14 department has made the reasonable efforts required by this  
15 section, the child's health and safety are of paramount concern.

16 (4) In determining whether the department has made  
17 reasonable efforts, the juvenile court shall consider both of  
18 the following:

19 (a) The relative risk to the child of remaining in the  
20 child's home versus removal of the child; and

21 (b) The type, duration, and intensity of protective  
22 services offered or provided to the child and the child's family.

23 Sec. 121. (1) Provision or delivery of reasonable efforts  
24 to preserve the family or to finalize a permanency plan is the  
25 department's responsibility.

1           (2) Determining whether protective services shall or  
2 shall not be provided or delivered is the responsibility of the  
3 juvenile court.

4           (3) Determining whether the protective services provided  
5 or delivered by the department constitute reasonable efforts is the  
6 responsibility of the court.

7           (4) If protective services are not ordered, the court  
8 record shall enumerate the reasons the services were not ordered,  
9 including, but not limited to, whether the services:

10           (a) Were not available;

11           (b) Were not accepted by the child's family;

12           (c) Were determined by the court to be unable to protect  
13 the child during the time the services would have been provided; or

14           (d) Were determined by the court to be unlikely to  
15 successfully prevent removal of the child.

16           (5) If protective service are not ordered, the juvenile  
17 court shall insure that the department is actively planning for a  
18 child's permanency.

19           Sec. 122. (1) Every child in foster care shall have  
20 a permanency hearing within the time limits specified in this  
21 section. The permanency hearing shall determine the permanency plan  
22 for a child in foster care. Paper reviews, ex parte hearings,  
23 agreed orders, or other actions or hearings which are not open  
24 to the participation of the parents or guardian of the child, the  
25 child, if of appropriate age, and foster parents or preadoptive

1 parents, if any, are not permanency hearings.

2 (2) A permanency hearing shall be held no later than  
3 twelve months after the date a child entered foster care unless the  
4 court has determined that reasonable efforts to reunify the child  
5 and his or her family are not required. If the court has made a  
6 determination that reasonable efforts are not required, a priority  
7 permanency hearing shall be held no later than thirty days after  
8 such determination.

9 (3) A permanency plan implementation hearing shall  
10 be held within twelve months after the permanency hearing. A  
11 permanency plan implementation hearing shall be held within ninety  
12 days after a priority permanency hearing.

13 Sec. 123. (1) Any party can request an expedited  
14 permanency hearing prior to the expiration of the times specified  
15 in section 122 of this act. The request shall be granted unless:

16 (a) The expedited hearing is found by the court to be  
17 contrary to the child's best interests; or

18 (b) Granting the request will unduly prejudice the  
19 interests of another party. The child's health and safety are  
20 of paramount concern to the court, to be balanced against any  
21 prejudice to another party.

22 (2) The court shall make written findings of fact and  
23 conclusions of law supporting a denial of a request for an  
24 expedited permanency hearing.

25 (3) Denial of a request for an expedited permanency

1 hearing is not a final order.

2           Sec. 124. The recommendations that the department may  
3 make at a permanency hearing are limited to:

4           (1) Return of custody of the protected child to the  
5 child's parent;

6           (2) Adoption, including a recommendation that a petition  
7 for termination of parental rights be filed;

8           (3) Appointment of a permanent guardian; or

9           (4) Placement in another planned permanent living  
10 arrangement, but only in cases in which the department has  
11 documented to the court a compelling reason for determining that it  
12 would not be in the best interests of the child to recommend one of  
13 the other options in this section.

14           Sec. 125. Parties to a court action involving appointment  
15 of a permanent guardian or termination of parental rights are:

16           (1) The child;

17           (2) The child's guardian ad litem;

18           (3) The child's responsible adult;

19           (4) The department;

20           (5) The petitioner;

21           (6) The court appointed special advocate, if one has been  
22 appointed under the Court Appointed Special Advocate Act;

23           (7) The State Foster Care Review Board, in any case in  
24 which a protected child is in foster care;

25           (8) In the case of an Indian child as defined in the

1 Nebraska Indian Child Welfare Act:

2 (a) The Indian custodian of the child and the Indian  
3 child's tribe through the tribal representative;

4 (b) Any person who intervenes as a party;

5 (c) Any person who is joined as a party; and

6 (d) Any other person deemed by the court to be important  
7 to a resolution that is in the best interests of the child;

8 (9) The child's parents, including any noncustodial  
9 parent and any adjudicated or presumed father;

10 (10) The proposed permanent guardian; and

11 (11) A person entitled to notice of any adoption  
12 proceeding involving the child.

13 Sec. 126. (1) A petition, supplemental petition, or  
14 motion may be filed with the court requesting the appointment of a  
15 permanent guardian for a child.

16 (2) The petition, supplemental petition, or motion shall  
17 contain:

18 (a) The name, sex, residence, and date and place of birth  
19 of the child;

20 (b) The facts and circumstances supporting the grounds  
21 for permanent guardianship;

22 (c) The name and address of the prospective permanent  
23 guardian and a statement that the prospective permanent guardian  
24 agrees to accept the duties and responsibilities of permanent  
25 guardianship;

- 1           (d) The basis for the court's jurisdiction;  
2           (e) The relationship of the child to the prospective  
3 permanent guardian; and  
4           (f) Whether the child is subject to the Nebraska Indian  
5 Child Welfare Act, and if so:  
6           (i) The tribal affiliations of the child and the child's  
7 parents;  
8           (ii) The specific actions the person who files the motion  
9 has taken to notify the parents' tribes and the results of those  
10 contacts, including the names, addresses, titles, and telephone  
11 numbers of the persons contacted. The person shall attach to the  
12 motion as exhibits any correspondence with the tribes;  
13           (iii) The specific efforts that were made to comply with  
14 the placement preferences under the Nebraska Indian Child Welfare  
15 Act or the placement preferences of the appropriate Indian tribes;  
16 and  
17           (iv) The name, address, marital status, and date of birth  
18 of the birth parents, if known.

19           Sec. 127. (1) Upon the filing of a petition, supplemental  
20 petition, or motion to appoint a permanent guardian, the court  
21 shall issue a summons and a copy of the pleading to the parties.

22           (2) The court shall endorse on the summons that the  
23 proceeding is one for appointment of a permanent guardian, shall  
24 set the time and place for an initial hearing, and shall cause  
25 service to be given.

1           (3) Except as provided in subsection (4) of this section,  
2 service shall be made in accordance with sections 25-505.01 to  
3 25-514.01 and:

4           (a) Personal or residence service under section 25-505.01  
5 shall be effected at least seventy-two hours before the time set  
6 for a hearing; and

7           (b) Certified mail service under section 25-505.01 shall  
8 be mailed at least five days before the date set for a hearing.

9           (4) Substitute and constructive notice may be permitted  
10 by the court, as provided in sections 25-517.02 to 25-527 and:

11           (a) Authorization of substitute or constructive service  
12 shall not expand the time a child can be held in custody without  
13 judicial review; and

14           (b) When the court authorizes substitute or constructive  
15 service, the court shall set hearings so parties who are the  
16 subject of such service have adequate time to prepare, consistent  
17 with the best interests of the child and the purposes of the  
18 Nebraska Juvenile Code.

19           (5) Parties to a permanent guardianship proceeding are  
20 listed in section 125 of this act.

21           Sec. 128. (1) All parties shall be present at the  
22 hearing regarding appointment of a permanent guardian. If a party  
23 has received service as required and does not appear at the  
24 adjudication, the hearing shall not be continued unless:

25           (a) The court finds the absence justified;

1           (b) A continuance is in the child's best interests; and  
2           (c) The continuance is required in the interests of  
3 justice.

4           (2) The rules of evidence shall apply at the hearing, and  
5 the hearing shall be entirely on the record.

6           (3) The presence and testimony of the protected child  
7 at the hearing for appointment of a permanent guardian shall be  
8 determined in accordance with sections 102 and 103 of this act.

9           Sec. 129. (1) After hearing the evidence, the court may  
10 appoint a permanent guardian if the court finds by clear and  
11 convincing evidence that termination of parental rights is not in  
12 the best interests of the child, one or more of the grounds for  
13 termination of parental rights exists, appointment of a permanent  
14 guardian is in the best interests of the child, and the proposed  
15 guardian is qualified.

16           (2) The court shall find the proposed guardian to be  
17 qualified if the proposed guardian:

18           (a) Is emotionally, mentally, physically, and financially  
19 suitable to become the permanent guardian;

20           (b) Has expressly committed to remain the permanent  
21 guardian for the duration of the child's minority; and

22           (c) Has expressly demonstrated a clear understanding  
23 of the financial implications of becoming a permanent guardian,  
24 including an understanding of any resulting loss of state benefits  
25 or other assistance.

1           Sec. 130. (1) A petition, supplemental petition, or  
2 motion may be filed with the court requesting termination of  
3 parental rights. Such pleading shall only be filed by:

4           (a) The county attorney;

5           (b) The department;

6           (c) The child's guardian ad litem; or

7           (d) With the consent of the county attorney, any party.

8           (2) Upon the filing of a petition, supplemental petition,  
9 or motion to terminate parental rights, every party shall be served  
10 with a summons and a copy of the pleading. The court shall endorse  
11 on the summons that the proceeding is one to terminate parental  
12 rights, shall set the time and place for an initial hearing, and  
13 shall cause service to be made.

14           (3) Except as provided in subsection (4) of this section,  
15 service shall be made in accordance with sections 25-505.01 to  
16 25-514.01 and:

17           (a) Personal or residence service under section 25-505.01  
18 shall be effected at least seventy-two hours before the time set  
19 for a hearing; and

20           (b) Certified mail service under section 25-505.01 shall  
21 be mailed at least five days before the date set for a hearing.

22           (4) Substitute and constructive notice may be permitted  
23 by the court, as provided in sections 25-517.02 to 25-527 and:

24           (a) Authorization of substitute or constructive service  
25 shall not expand the time a protected child can be held in custody

1 without judicial review; and

2 (b) When the court authorizes substitute or constructive  
3 service, the court shall set hearings so parties who are the  
4 subject of such service have adequate time to prepare, consistent  
5 with the best interests of the child and the purposes of the  
6 Nebraska Juvenile Code.

7 (5) Parties to a termination of parental rights  
8 proceeding are listed in section 125 of this act. If the child  
9 named in the petition has been in foster care with the same foster  
10 parents for ninety days or more, the child's foster parents are  
11 also parties to the proceedings.

12 Sec. 131. A petition, supplemental petition, or motion  
13 requesting termination of parental rights shall include:

14 (1) The name of the court and county in which the action  
15 is brought;

16 (2) The names of the parties;

17 (3) A statement of the facts, in ordinary and concise  
18 language, supporting the request for termination of parental  
19 rights; and

20 (4) Whether the child is subject to the Nebraska Indian  
21 Child Welfare Act, and if so:

22 (a) The tribal affiliations of the child;

23 (b) The specific actions taken to notify the child's  
24 tribes and the results of those contacts, including the  
25 names, addresses, titles, and telephone numbers of the persons

1 contacted. The person shall attach to the motion as exhibits any  
2 correspondence with the tribes; and

3 (c) The specific efforts that were made to comply with  
4 the placement preferences under the Nebraska Indian Child Welfare  
5 Act or the placement preferences of the appropriate Indian tribes.

6 Sec. 132. (1) The court may terminate parental rights if  
7 the court finds by clear and convincing evidence that termination  
8 of parental rights is in the best interests of the child and one or  
9 more of the following grounds exists:

10 (a) The child is an abandoned child;

11 (b) The parents have substantially and continuously or  
12 repeatedly neglected and refused to give the child or a sibling of  
13 the child necessary parental care and protection;

14 (c) The parents, being financially able, have willfully  
15 neglected to provide the child with the necessary subsistence,  
16 education, or other care necessary for his or her health,  
17 morals, or welfare or have neglected to pay for such subsistence,  
18 education, or other care when custody of the child is not with the  
19 parents and such payment has been ordered by the court;

20 (d) The parents have engaged in conduct seriously  
21 detrimental to the health, morals, or well-being of the child;

22 (e) Following a determination that the child is a child  
23 in need of state protection, reasonable efforts to preserve and  
24 reunify the family, if required, have failed to correct the  
25 conditions leading to the determination;

1           (f) The child has been in an out-of-home placement for  
2 fifteen or more months of the most recent twenty-two months, except  
3 that this is not a ground for termination if the child has been  
4 in an out-of-home placement for fifteen or more months of the most  
5 recent twenty-two months solely due to a juvenile court disposition  
6 order regarding a child in need of state services or a child in  
7 need of state rehabilitation; or

8           (g) The parent has engaged in conduct constituting  
9 exceptionally endangering circumstances as listed in section 80  
10 of this act.

11           (2) If the child is an Indian child as defined in  
12 the Nebraska Indian Child Welfare Act, the findings required by  
13 subsection (1) of this section shall be proven beyond a reasonable  
14 doubt.

15           (3) Notwithstanding any other provisions of this section,  
16 parental rights shall not be terminated if the child objects to  
17 such termination and the child is fourteen years of age or older  
18 or otherwise of an age of decisionmaking competency, as determined  
19 by the court. Prior to accepting a child's objection under this  
20 subsection, the court shall personally question the child to  
21 determine whether the objection is the voluntary and knowing choice  
22 of the child.

23           Sec. 133. Except as otherwise provided, parties to any  
24 termination of parental rights proceeding shall have the rights  
25 listed in section 86 of this act. If the child named in the

1 petition is placed by or committed to the court, the department  
2 shall be represented by the county attorney as required in section  
3 23-1201. If a conflict arises between the department and the county  
4 attorney regarding the prosecution of any termination proceeding  
5 involving a protected child, an attorney employed or retained  
6 by the department may enter an appearance and represent the  
7 department's interests in the case.

8           Sec. 134. All proceedings regarding children and families  
9 in need of state services are governed by sections 134 to 160 of  
10 this act.

11           Sec. 135. (1) The Legislature recognizes that some  
12 children engage in conduct that creates substantial risk of harm  
13 to themselves. This conduct of a runaway, truant, or disobedient  
14 child, as described in section 13 of this act, is not criminal  
15 and does not require the child to be found a child in need of  
16 state rehabilitation. Often, families cannot prevent the child  
17 from engaging in such conduct. When families have made substantial  
18 attempts to prevent such conduct and the child persists in the  
19 conduct, the child is a child in need of state services. The  
20 purpose of state services is to provide appropriate services and  
21 placement designed to assist the child and the child's family in  
22 altering the child's conduct to minimize risk to the child.

23           (2) Services and placement shall be provided in the least  
24 intrusive and least restrictive method consistent with the needs  
25 of the child. To address the problems of children and families in

1 need of state services, an array of services shall be provided  
2 designed to preserve the unity and integrity of the family and  
3 to emphasize parental responsibility for the behavior of their  
4 children. Such services shall be provided on a continuum of  
5 increasing intensity and participation by the responsible adults  
6 and the children. Judicial intervention to resolve the problems and  
7 conflicts that exist within a family shall be limited to situations  
8 in which a resolution to the problem or conflict has not been  
9 achieved through services, treatment, and family intervention after  
10 all available less restrictive resources have been exhausted. Any  
11 services required for a child in need of state services to effect  
12 the other purposes of the Nebraska Juvenile Code shall be provided  
13 as close to the home community of the child as possible.

14 (3) The position of Child Services Administrator shall  
15 be within the Office of Probation Administration and shall have  
16 the necessary staff to carry out his or her duties under the  
17 Nebraska Juvenile Code. The administrator shall be responsible for  
18 all nonjudicial proceedings involving a family in need of state  
19 services. The nonjudicial proceedings shall be according to rules  
20 promulgated by the Supreme Court. The administrator may contract  
21 with providers to provide services and treatment for children  
22 and families in need of state services. The administrator shall  
23 designate a resource specialist in each district court judicial  
24 district who will coordinate with the behavioral health regions to  
25 identify all available service providers and funding sources for

1 services required by the code. Service providers may be individual  
2 providers, private agencies, or government agencies.

3           Sec. 136. (1) Services described in sections 134 and 138  
4 of this act may be provided to children and families without a  
5 court order if:

6           (a) No petition alleging a child to be a child in need of  
7 state services has been filed;

8           (b) The family requests such services; and

9           (c) The administrator determines such services are  
10 appropriate and necessary as provided in sections 137 to 139 of  
11 this act.

12           (2) The administrator, in collaboration with the  
13 department and the State Department of Education, shall develop  
14 and publish an information packet that explains the process for  
15 children and families to obtain state services and the community  
16 services and resources available to parents of troubled or  
17 runaway children. In preparing the information packet, school  
18 superintendents, juvenile court judges, and county sheriffs and  
19 other local law enforcement officials shall be consulted in order  
20 to ensure that the information packet lists services and resources  
21 that are available within the county in which the packet is  
22 distributed. Each information packet shall be annually updated and  
23 shall be available for distribution by the operative date of this  
24 act. The school district shall distribute this information packet  
25 to parents of truant children and to other parents upon request

1 or as deemed appropriate by the school district. In addition, the  
2 administrator shall distribute the information packet to state and  
3 local law enforcement agencies. Any law enforcement officer who has  
4 contact with the parent of a child who is locked out of the home  
5 or who runs away from home shall make the information available  
6 to the parent.

7           Sec. 137. (1) The initial assessment and screening for  
8 a child or family allegedly in need of state services shall be  
9 performed by the administrator. A report alleging that a child  
10 or a family is in need of state services shall be made to the  
11 assessment and screening office in the county in which the child  
12 or family is found or in which the case arose. Any person or  
13 agency, including the responsible adult, the school district, a  
14 law enforcement agency, or the department, having knowledge of the  
15 facts may make a report.

16           (2) A representative of the administrator shall make a  
17 preliminary determination as to whether the report is complete.  
18 If the report is incomplete, the representative shall return the  
19 report without delay to the person or agency originating the  
20 report or having knowledge of the facts or to the appropriate law  
21 enforcement agency having investigative jurisdiction and request  
22 additional information in order to complete the report.

23           (3) If the representative of the administrator determines  
24 that, in his or her judgment, the interests of the family, the  
25 child, and the public will be best served by providing the family

1 and the child services and treatment voluntarily accepted by the  
2 child and the responsible adults, the representative shall refer  
3 the family or child to an appropriate service and treatment  
4 provider. As part of the intake procedure, the representative  
5 shall inform the responsible adult, in writing, of the services  
6 and treatment available to the child and family by providers or  
7 community agencies and the rights and responsibilities of the  
8 responsible adult.

9 (4) If the administrator has reasonable grounds to  
10 believe that the child is a child in need of state protection, the  
11 administrator shall proceed as provided in sections 62 to 114 of  
12 this act.

13 Sec. 138. (1) Services and treatment to children and  
14 families in need of state services shall be by voluntary agreement  
15 of the responsible adult and the child or as directed by a juvenile  
16 court order. Such services may include:

17 (a) Homemaker or parent aide services;

18 (b) Intensive crisis counseling;

19 (c) Parent training;

20 (d) Individual, group, or family counseling;

21 (e) Community mental health services;

22 (f) Prevention and diversion services;

23 (g) Services provided by voluntary or community agencies;

24 (h) Runaway center services;

25 (i) Housekeeper services;

- 1           (j) Special educational, tutorial, or remedial services;  
2           (k) Vocational, job training, or employment services;  
3           (l) Recreational services; and  
4           (m) Assessment.

5           (2) The administrator shall advise the responsible adult  
6 that he or she is responsible for contributing to the cost of  
7 the services and treatment to the extent of ability to pay. The  
8 administrator shall set and charge fees for services and treatment  
9 provided to clients. The administrator may employ a collection  
10 agency for the purpose of receiving, collecting, and managing the  
11 payment of unpaid and delinquent fees. The administrator may pay  
12 to the collection agency a fee from the amount collected under the  
13 claim or may authorize the agency to deduct the fee from the amount  
14 collected.

15           (3) The administrator may maintain an action in the  
16 district court to enforce the collection of fees for services and  
17 treatment rendered to the child or the responsible adult.

18           Sec. 139. (1)(a) A person who is not an authorized agent  
19 of the administrator or the department shall not knowingly shelter  
20 an unmarried or unemancipated child for more than twenty-four hours  
21 without the consent of the child's responsible adult or without  
22 notifying a law enforcement officer of the child's name and the  
23 fact that the child is being provided shelter.

24           (b) A person shall not knowingly provide aid to an  
25 unmarried or unemancipated child who has run away from home without

1 first contacting the child's responsible adult or notifying a law  
2 enforcement officer. The aid prohibited under this subdivision  
3 includes assisting the child in obtaining shelter, such as hotel  
4 lodgings.

5 (2) A person who violates this section commits a Class IV  
6 misdemeanor.

7 (3) Upon finding that a child has been or is in a shelter  
8 without a responsible adult and the responsible adult cannot be  
9 located, the administrator shall take emergency custody of the  
10 child and shall file the appropriate petition with the juvenile  
11 court.

12 (4) The administrator and the department shall encourage  
13 interagency cooperation throughout the state among agencies  
14 providing services to children and families and shall develop  
15 comprehensive agreements between the staff and providers of such  
16 agencies to coordinate the services provided to children who are  
17 locked out of the home and the families of those children.

18 Sec. 140. (1)(a) The juvenile court has exclusive  
19 original jurisdiction over every case in which a child or a  
20 family is alleged to be in need of state services. The juvenile  
21 court's subject matter jurisdiction begins when continued custody  
22 proceedings regarding a child in need of state services are  
23 instituted. If a petition alleging a child to be a child in need  
24 of state services is filed, the jurisdiction of the court continues  
25 until the child is found not to be a child in need of state

1 services. The juvenile court may find that a child is not a child  
2 in need of state services at the adjudication hearing or any time  
3 thereafter.

4 (b) If the court finds a child or a family to be in need  
5 of state services, only the court may determine the child to be no  
6 longer a child in need of state services.

7 (c) The juvenile court has jurisdiction over all parties  
8 to an action regarding a child alleged or found to be a child in  
9 need of state services.

10 (2) Personal jurisdiction attaches to a child in need of  
11 state services when:

12 (a) The child is taken into emergency custody; or

13 (b) The child is named in a petition filed with the court  
14 and:

15 (i) An order for emergency custody is entered; or

16 (ii) If there is no order for emergency custody, the  
17 child or the child's responsible adult is served notice of the  
18 action as provided in section 153 of this act.

19 (3) The juvenile court has jurisdiction over every  
20 responsible adult and any siblings of a child in need of state  
21 services.

22 (4) Personal jurisdiction attaches to the responsible  
23 adult and any siblings of a child in need of state services when:

24 (a) The child is taken into emergency custody; or

25 (b) The child is named in a petition filed with the court

1 and:

2 (i) An order for emergency custody is entered; or

3 (ii) If there is no order for emergency custody, the  
4 child's responsible adult is served with a notice of the action as  
5 provided in section 153 of this act.

6 (5) Personal jurisdiction over a child of a child in need  
7 of state services or his or her responsible adult and any siblings  
8 based solely on emergency custody of the child in need of state  
9 services attaches only as long as the emergency custody continues.

10 (6) If an order entered by the juvenile court regarding  
11 a child of a child in need of state services conflicts with an  
12 order entered by another court, the order of the juvenile court has  
13 precedence.

14 (7) When the interest of a child over which the juvenile  
15 court has jurisdiction under this section is potentially adverse to  
16 the child's responsible adult, the court shall appoint counsel for  
17 the child.

18 Sec. 141. (1) The court shall care for every child of a  
19 child in need of state services placed by or committed to the court  
20 and shall decide what care is appropriate.

21 (2)(a) The administrator shall provide services designed  
22 to eliminate, moderate, or reduce the conduct described in section  
23 13 of this act to every child in need of state services placed by  
24 or committed to the court and to such child's family.

25 (b) Services shall be provided as required by a

1 disposition order regarding a child in need of state services.

2           Sec. 142. (1) A law enforcement officer may take  
3 emergency custody of a child whenever it reasonably appears the  
4 child is a child in need of state services.

5           (2) A law enforcement officer taking a child alleged to  
6 be a child in need of state services into emergency custody under  
7 this section shall, as soon as practicable, deliver the child to  
8 the administrator.

9           Sec. 143. (1) A law enforcement officer, with a court  
10 order authorizing emergency custody of a child in need of state  
11 services who has violated the terms or conditions of his or her  
12 probation, may take emergency custody of such child.

13           (2) A law enforcement officer taking a child in need of  
14 state services into emergency custody under this section shall, as  
15 soon as practicable, deliver the child to the probation officer  
16 supervising the child.

17           Sec. 144. The following restrictions and rights apply to  
18 the emergency custody of a child in need of state services under  
19 section 142 or 143 of this act:

20           (1) A child in need of state services taken into  
21 emergency custody has the right to call or consult an attorney  
22 without unnecessary delay. If an attorney is requested, the  
23 attorney shall be permitted to see and consult with the child  
24 in need of state services at the place of custody;

25           (2) A law enforcement officer who takes emergency custody

1 of a child in need of state services shall immediately take  
2 reasonable measures to notify the child's responsible adult that  
3 the child is in emergency custody and the reasons the child was  
4 taken into emergency custody; and

5 (3) Within twelve hours after assuming emergency custody  
6 of a child in need of state services, the law enforcement  
7 officer shall submit a written report describing the circumstances  
8 requiring the child's custody to the county attorney of the county  
9 where emergency custody was taken and, if emergency custody was  
10 assumed under section 142 of this act, the administrator's office  
11 in or nearest to the county where custody was taken.

12 Sec. 145. For a child alleged to be a child in need  
13 of state services taken into emergency custody under section 142  
14 of this act, the administrator shall place the child in the  
15 least restrictive setting consistent with the best interests of  
16 the child as determined by the administrator and shall supervise  
17 the placement. The administrator shall consent only to necessary  
18 emergency medical, dental, psychological, or psychiatric treatment  
19 so long as the placement continues.

20 Sec. 146. (1) Within forty-eight hours, including  
21 weekends and holidays, after a child alleged to be a child in  
22 need of state services has been taken into emergency custody under  
23 section 142 of this act, a request for continued custody may be  
24 filed with the court.

25 (2) The request for continued custody may be filed ex

1 parte.

2 (3) The request shall state the reasons the court should  
3 grant continued custody, including the circumstances requiring  
4 continued custody.

5 (4) The request shall be supported by testimony or  
6 affidavit. The affidavit may be based on information and belief.  
7 No child alleged to be a child in need of state services shall be  
8 required or asked to sign the affidavit or to testify in support of  
9 the request. If the request is to be supported solely by testimony,  
10 a written report describing the facts and circumstances shall be  
11 filed with the request.

12 (5) Any party may request, or the court may order without  
13 a request, a hearing regarding continued custody. If a party  
14 requests a hearing regarding continued custody, the court shall  
15 set a hearing unless emergency custody has been continued on an ex  
16 parte basis. The hearing shall be held prior to the expiration of  
17 emergency custody.

18 (6) The rules of evidence shall not apply to hearings  
19 regarding continued custody.

20 (7) In any proceedings regarding continued custody, the  
21 state has the burden of showing that probable cause exists to  
22 believe that the child is a child in need of state services and  
23 that continued custody of the child is necessary for the child's  
24 safety or to insure the child's appearance at subsequent court  
25 hearings.

1           (8) If the court finds there is probable cause to believe  
2 the child is a child in need of state services and that continued  
3 custody of the child is necessary for the child's safety or to  
4 insure the child's appearance at subsequent court hearings, the  
5 court shall order continued custody for a period not to exceed  
6 three judicial days.

7           (9) The court's order, whether granting or denying the  
8 request for continued custody, shall be in writing and shall state  
9 the reasons therefor.

10           (10) Continued custody proceedings may be conducted  
11 telephonically for good cause shown. If proceedings are conducted  
12 telephonically and testimony taken, a recording shall be made of  
13 the proceeding. Any documents required by this subsection may be  
14 filed electronically for good cause shown.

15           (11) An order for continued custody is not a final order.

16           (12) If the court orders continued custody, the  
17 administrator may consent only to necessary emergency medical,  
18 dental, psychological, or psychiatric treatment so long as the  
19 placement with the administrator continues.

20           Sec. 147. (1) Whenever a child in need of state services  
21 is placed under the services of a probation officer, the probation  
22 officer or a county attorney may request the court modify or revoke  
23 that probation. The request shall be in writing and shall include:

24           (a) The terms or conditions of probation that the child  
25 in need of state services is alleged to have violated;

1           (b) The facts supporting the allegation; and  
2           (c) A statement regarding the necessity, due to the  
3 likelihood of the child in need of state services causing harm to  
4 others or to himself or failing to appear in court as required,  
5 of taking the child into emergency custody pending a judicial  
6 determination of the request, including any facts supporting a  
7 request for such emergency custody.

8           (2) If the court determines that the request is supported  
9 by probable cause to believe the child has violated the terms or  
10 conditions of probation imposed by the court, the court shall set a  
11 time and date for a hearing to determine whether probation should  
12 be revoked or modified. If the court finds the request is not  
13 supported by probable cause, it shall deny the request.

14           (3) If the court finds from the facts presented in the  
15 request that there is probable cause to believe the child will  
16 cause harm to himself or herself or to others or will fail to  
17 appear as required, the court may order the child be taken into  
18 emergency custody pending a judicial determination of the request  
19 to revoke or modify probation.

20           (4) A request to modify or revoke the probation of a  
21 child in need of state services shall be served on the parties to  
22 the original action at least seventy-two hours prior to the hearing  
23 on the request.

24           (5) A child in need of state services taken into  
25 emergency custody for probation violation under section 143 of

1 this act or under subsection (3) of this section shall not be  
2 held in emergency custody longer than twenty-four hours, excluding  
3 nonjudicial days, without a probable cause hearing.

4 (a) The rules of evidence shall not apply at the probable  
5 cause hearing.

6 (b) The child in need of state services shall have the  
7 following rights at the probable cause hearing:

8 (i) To be present;

9 (ii) To counsel, if the child in need of state services  
10 was represented by counsel at the hearing at which probation was  
11 imposed;

12 (iii) To confront and cross-examine witnesses; and

13 (iv) To make a statement.

14 (6) If the court finds, from the evidence presented, that  
15 there is probable cause to believe that the child in need of state  
16 services violated the terms or conditions of probation and that  
17 the child may cause harm to himself or herself or others or may  
18 fail to appear as required, the court may order the child held in  
19 continued custody pending the hearing on the request to revoke or  
20 modify probation.

21 (7) If the court finds, from the evidence presented, that  
22 there is no probable cause to believe that the child in need of  
23 state services violated the terms or conditions of probation, it  
24 shall deny the request to revoke or modify probation and order the  
25 child released.

1           (8) If the court finds probable cause to believe the  
2 child in need of state services violated the terms or conditions  
3 of probation, but not that the child may cause harm to himself or  
4 herself or others or may fail to appear, the court shall order the  
5 child to appear at the hearing on the request and order the child  
6 released.

7           Sec. 148. (1) A hearing to revoke or modify the probation  
8 of a child in need of state services shall be conducted by the  
9 court imposing probation when possible. If the court that ordered  
10 the original disposition of probation is unavailable, the hearing  
11 to revoke or modify probation may be held by any juvenile court  
12 where venue is otherwise proper. The hearing shall be conducted on  
13 the record. The rules of evidence shall not apply at a hearing to  
14 revoke or modify probation.

15           (2) The hearing to revoke or modify probation shall be  
16 held no later than fourteen days after a child in need of state  
17 services is taken into emergency custody under section 143 of this  
18 act and no later than thirty days after a request to revoke or  
19 modify probation is filed if the child is not taken into emergency  
20 custody.

21           (3) The child in need of state services shall have the  
22 following rights at a hearing to revoke or modify probation:

23           (a) To have written notice of the allegations of specific  
24 violations of conditions of probation and of any facts in support  
25 of the allegations;

1           (b) To have at least seventy-two hours notice of the  
2 hearing;

3           (c) To be present at the hearing;

4           (d) To have counsel and to have counsel appointed if  
5 necessary;

6           (e) To confront and cross-examine adverse witnesses;

7           (f) To present witnesses and evidence on his or her own  
8 behalf; and

9           (g) To make a statement on his or her own behalf.

10           (4) If the court finds by a preponderance of the evidence  
11 that the child in need of state services has violated the terms or  
12 conditions of probation, the court may modify or revoke probation  
13 and impose any disposition authorized by section 159 of this act.

14           (5) If the court does not find by a preponderance of the  
15 evidence that the child in need of state services has violated the  
16 terms or conditions of probation, the court shall deny the request  
17 and, if the child has been held in continued custody, release the  
18 child from custody.

19           (6) A finding that a child in need of state services has  
20 violated the terms or conditions of probation is a final order and  
21 may be appealed as provided in section 217 of this act.

22           Sec. 149. (1) A child alleged to be a child in  
23 need of state services or a child in need of state services  
24 in emergency custody, continued custody, or awaiting probation  
25 revocation proceedings shall not be held or placed in:

1           (a) A facility intended or used for the detention of  
2 adults;

3           (b) An adult correctional facility;

4           (c) The secure youth confinement facility operated by the  
5 Department of Correctional Services;

6           (d) A juvenile detention facility, except that a child  
7 alleged to be a child in need of state services or a child in need  
8 of state services may be held in such a facility for a period not  
9 to exceed five days;

10           (e) A youth rehabilitation and treatment center; or

11           (f) The custody of the office.

12           (2) A child's responsible adult may request visitation  
13 during emergency custody or continued custody.

14           Sec. 150. (1) No child alleged to be a child in need  
15 of state services shall be held in emergency custody longer  
16 than forty-eight hours without judicial review. If a court order  
17 granting continued custody has not been issued within forty-eight  
18 hours after the child was taken into emergency custody without a  
19 court order, the child shall be released to the child's responsible  
20 adult. Willful failure to release a child in need of state services  
21 as required by this section shall constitute false imprisonment in  
22 the second degree under section 28-315.

23           (2) If no request for continued custody is filed within  
24 the time limits in subsection (1) of this section and custody  
25 is restored to the child's responsible adult, the county attorney

1 shall provide the child's responsible adult with a written report  
2 explaining why the child in need of state services was taken  
3 into emergency custody. The report shall set forth the facts and  
4 circumstances creating the emergency. This report shall be provided  
5 to the responsible adult within seven days after custody of the  
6 child is restored to the responsible adult.

7 (3) A petition alleging the child to be a child in need  
8 of state services may be filed before the expiration of continued  
9 custody. The filing of a petition and all subsequent proceedings  
10 are governed by sections 151 to 160 of this act.

11 (4) If no petition alleging the child to be a child in  
12 need of state services is filed before the expiration of continued  
13 custody, the child shall be released to the custody of the child's  
14 responsible adult. Willful failure to release a child in need of  
15 state services as required by this section shall constitute false  
16 imprisonment in the second degree under section 28-315.

17 Sec. 151. Parties to a court action involving an  
18 allegation that a child is a child in need of state services  
19 are:

- 20 (1) The child;  
21 (2) The child's guardian ad litem;  
22 (3) The child's responsible adult;  
23 (4) The administrator;  
24 (5) The petitioner;  
25 (6) The child's probation officer;

1           (7) The State Foster Care Review Board, in any case in  
2 which a child in need of state services is in foster care;

3           (8) In the case of an Indian child as defined in the  
4 Nebraska Indian Child Welfare Act:

5           (a) The Indian custodian of the child and the Indian  
6 child's tribe through the tribal representative;

7           (b) Any person who intervenes as a party;

8           (c) Any person who is joined as a party; and

9           (d) Any other person deemed by the court to be important  
10 to a resolution that is in the best interests of the child.

11           Sec. 152. (1) An action seeking to have a child found to  
12 be a child in need of state services shall be commenced by the  
13 filing of a petition in the office of the clerk of the juvenile  
14 court.

15           (2) A petition alleging a child to be a child in need of  
16 state services shall be filed only by:

17           (a) The county attorney;

18           (b) The administrator;

19           (c) The child's responsible adult; or

20           (d) With the consent of the county attorney, any party.

21           (3) A petition alleging a child to be a child in need of  
22 state services shall include:

23           (a) The name of the court and county in which the action  
24 is brought;

25           (b) The names of the parties;

1           (c) A statement of the facts, in ordinary and concise  
2 language, showing the child to be a child in need of state  
3 services;

4           (d) Whether the child is subject to the Nebraska Indian  
5 Child Welfare Act, and if so:

6           (i) The tribal affiliations of the child;

7           (ii) The specific actions taken to notify the child's  
8 tribes and the results of those contacts, including the  
9 names, addresses, titles, and telephone numbers of the persons  
10 contacted. The person shall attach to the motion as exhibits any  
11 correspondence with the tribes; and

12           (iii) The specific efforts that were made to comply with  
13 the placement preferences under the Nebraska Indian Child Welfare  
14 Act or the placement preferences of the appropriate Indian tribes;

15           (e) A request that the court determine whether support  
16 will be ordered under sections 53 to 61 of this act;

17           (f) A statement as to whether the child in need of state  
18 services is in emergency custody or continued custody. If the child  
19 in need of state services is in emergency custody or continued  
20 custody:

21           (i) A statement as to whether the petitioner is seeking  
22 continued custody of the child in need of state services. If the  
23 petitioner is seeking continued custody, the court shall set a  
24 hearing to determine the issue. The hearing regarding continued  
25 custody shall be conducted as provided in section 146 of this act;

1           (ii) The date, time, and place of any hearing regarding  
2 the child's continued custody and a statement that at such hearing  
3 the child in need of state services and his or her responsible  
4 adults have the rights listed in section 156 of this act;

5           (iii) A copy of all documents filed with the court prior  
6 to filing of the petition.

7           (4) A petition alleging a child to be a child in need of  
8 state services may include:

9           (a) A request for emergency custody of the child alleged  
10 to be a child in need of state services; and

11           (b) A request for any other relief that is in the child's  
12 best interests.

13           (5) Every petition alleging a child to be a child in need  
14 of state services shall be made on information and belief and shall  
15 be verified as provided in subdivision (7) of section 49-1504.

16           (6) Upon the filing of a petition alleging a child to be  
17 a child in need of state services, the court may appoint a guardian  
18 ad litem for the child and counsel for the child in need of state  
19 services and his or her responsible adults.

20           Sec. 153. (1) Every party to an action regarding a child  
21 in need of state services shall be served with a summons and a copy  
22 of the petition. The court shall endorse on the summons that the  
23 proceeding is one to find a child to be a child in need of state  
24 services, shall set the time and place for an initial hearing, and  
25 shall cause service to be made.

1           (2) Except as provided in subsection (3) of this section,  
2 service shall be made in accordance with sections 25-505.01 to  
3 25-514.01 and:

4           (a) Personal or residence service under section 25-505.01  
5 shall be effected at least seventy-two hours before the time set  
6 for a hearing; and

7           (b) Certified mail service under section 25-505.01 shall  
8 be mailed at least five days before the date set for a hearing.

9           (3) Substitute and constructive notice may be permitted  
10 by the court, as provided in sections 25-517.02 to 25-527 and:

11           (a) Authorization of substitute or constructive service  
12 shall not expand the time a child in need of state services can be  
13 held without judicial review; and

14           (b) When the court authorizes substitute or constructive  
15 service, the court shall set hearings so parties who are the  
16 subject of such service have adequate time to prepare, consistent  
17 with the best interests of the child and the purposes of the  
18 Nebraska Juvenile Code.

19           (4) A party's voluntary appearance is the equivalent to  
20 service, except that child's appearance is not the equivalent of  
21 service.

22           (5) A party may, either in writing or in open court  
23 on the record, waive the requirement for seventy-two-hour notice,  
24 except that no child in need of state services shall be deemed to  
25 have waived the right to seventy-two-hour notice unless he or she

1 has consulted with counsel or a guardian ad litem and the court  
2 finds such waiver to be knowing and voluntary and in the child's  
3 best interests. The court shall personally address the child and  
4 the child's counsel or guardian ad litem before making such a  
5 finding.

6 Sec. 154. The purposes of the initial hearing are to:

7 (1) Protect the best interests of the child in need of  
8 state services;

9 (2) Insure adequate notice has been provided to all  
10 parties;

11 (3) Advise all parties of their rights, of the contents  
12 of the petition, and of the disposition alternatives available to  
13 the court;

14 (4) Appoint counsel and a guardian ad litem when  
15 appropriate;

16 (5) Determine any custody or visitation issues;

17 (6) Determine support; and

18 (7) Set an adjudication hearing.

19 Sec. 155. (1) No sooner than seventy-two hours and no  
20 later than five days after service is effected as required, the  
21 court shall hold an initial hearing regarding the petition.

22 (2) The initial hearing shall be entirely on the record.

23 (3) All parties shall be present at the initial hearing.

24 If a party has received service as required and does not appear at  
25 the initial hearing, the hearing shall not be continued unless the

1 court finds a continuance is required in the interests of justice.

2           Sec. 156. At the initial hearing, the parties shall  
3 be advised of their rights. Nothing in this section shall  
4 be construed as denying, limiting, or restricting any rights  
5 existing under either the Constitution of Nebraska or United  
6 States Constitution. Unless otherwise specified, all parties to any  
7 proceeding concerning a child alleged to be a child in need of  
8 state services shall have the right to:

9           (1) Receive notice;

10           (2) Have legal representation. The administrator shall be  
11 represented by the county attorney at all proceedings, as required  
12 in section 23-1201, regarding a child in need of state services who  
13 has been committed to the court. If a conflict arises between the  
14 administrator and the county attorney regarding the prosecution of  
15 any case involving a child in need of state services committed to  
16 the court, an attorney employed or retained by the administrator  
17 may enter an appearance and represent the administrator's interests  
18 in the case;

19           (3) Testify;

20           (4) Remain silent as to any matter of inquiry if the  
21 testimony sought to be elicited might tend to incriminate the  
22 party;

23           (5) Be present at all hearings unless excluded or excused  
24 as provided elsewhere in the Nebraska Juvenile Code;

25           (6) Conduct discovery;

- 1           (7) Bring motions;  
2           (8) Subpoena witnesses;  
3           (9) Argue in support of or against the petition;  
4           (10) Present evidence;  
5           (11) Cross-examine witnesses;  
6           (12) Request trial court review of the disposition upon a  
7 showing either of a substantial change of circumstances or that the  
8 disposition was inadequate;  
9           (13) Bring post-adjudication or post-disposition motions;  
10          (14) Appeal final orders of the court; and  
11          (15) Any other rights as set forth in statute.

12          Sec. 157. At the initial hearing:

13          (1) After advisement of rights as required in section  
14 156 of this act, the court may accept an answer of admission, no  
15 contest, or denial from the child in need of state services or his  
16 or her responsible adults to all or any part of the petition;

17          (2) The child in need of state services and his or her  
18 responsible adult may remain mute. In such case, the court shall  
19 enter an answer of denial for the child in need of state services  
20 and his or her responsible adult and schedule an adjudication  
21 hearing;

22          (3)(a) If the answer of either the child in need of  
23 state services or his or her responsible adult is admission or  
24 no contest, the court shall insure that the answer is knowing  
25 and voluntary and a factual basis exists for the answer before

1 accepting it;

2 (b) In deciding whether a child's answer of admission or  
3 no contest is knowingly made, the court shall personally address  
4 the child to determine whether the child:

5 (i) Understands the petition;

6 (ii) Understands the roles of participants in the  
7 legal process, including the judge, child's attorney, prosecutor,  
8 witnesses, and guardian ad litem, and the adversarial nature of the  
9 process;

10 (iii) Is able to reason about available options by  
11 weighing the potential consequences of the answer;

12 (iv) Is able to extend thinking into the future; and

13 (v) Is able to express himself or herself in a reasonable  
14 and coherent manner; and

15 (c) The factual basis may be established by:

16 (i) Facts contained in an affidavit filed with the court;

17 (ii) The sworn testimony of a person with knowledge of  
18 the facts establishing that the child is a child in need of state  
19 services; or

20 (iii) The representations of the county attorney  
21 regarding the facts establishing that the child is a child in need  
22 of state services, if accepted as true by the child or the child's  
23 guardian ad litem, the child's responsible adult, and the child's  
24 attorney;

25 (4) The court may not adjudicate a child to be a child

1 in need of state services based solely on the answer of admission  
2 or no contest by the child's responsible adult. Acceptance of  
3 such answers by the court is binding only against the child's  
4 responsible adult. If the child denies the petition or stands mute,  
5 the court shall:

6 (a) Schedule an adjudication hearing;

7 (b) Appoint counsel for the child and the child's  
8 responsible adult as necessary;

9 (c) Appoint a guardian ad litem for the child;

10 (d) Enter support orders appropriate under sections 53 to  
11 61 of this act; and

12 (e) Determine where and under what conditions the child  
13 shall be placed pending the adjudication hearing;

14 (5) If the court accepts the answer of the child in need  
15 of state services of admission or no contest, the allegations in  
16 the petition shall be found to be true and an adjudication based on  
17 the answer shall be entered finding the child to be a child in need  
18 of state services; and

19 (6) Upon the entry of adjudication finding the child to  
20 be a child in need of state services based on the child's answer of  
21 admission or no contest, the court may:

22 (a) Place the child under the services of a probation  
23 officer; or

24 (b)(i) Order the Office of Probation Administration or  
25 the department to prepare and file with the court a proposed case

1 plan for the care and services of the child in need of state  
2 services;

3 (ii) Set a disposition hearing;

4 (iii) Appoint counsel as necessary for the child and the  
5 child's responsible adults or adult;

6 (iv) Appoint a guardian ad litem for the child;

7 (v) Determine where and under what conditions the child  
8 shall be placed pending the disposition hearing; and

9 (vi) Enter any support orders appropriate under sections  
10 53 to 61 of this act or required as reasonable efforts to preserve  
11 and reunify the family or to finalize a permanency plan.

12 Sec. 158. (1) An adjudication hearing regarding a child  
13 alleged to be a child in need of state services shall be conducted  
14 on the record and without a jury. The rules of evidence shall  
15 apply.

16 (2) If the child is held in emergency custody, the  
17 adjudication hearing shall be held within ninety days after the  
18 date the child was first taken into emergency custody.

19 (3) If the child is not held in emergency custody, the  
20 adjudication hearing shall be held within one hundred twenty days  
21 after the date the petition was filed.

22 (4) Computation of the times specified in this section  
23 shall be in accordance with section 29-1207.

24 (5) If the adjudication hearing is not held within the  
25 time specified in this section, the child shall be released and the

1 petition dismissed.

2 (6) Dismissal of a petition for failure to hold the  
3 adjudication within the time specified in this section shall  
4 constitute a complete bar to refiling a petition based on the same  
5 set of facts.

6 (7) Failure of the child to move for dismissal prior to  
7 adjudication or entry of an admission or plea of no contest shall  
8 constitute a waiver of the right to speedy adjudication.

9 (8) The child named in the petition and the child's  
10 responsible adult shall have the rights prescribed in section 156  
11 of this act. The child shall also have the right to have the  
12 allegations against him or her found to be true beyond a reasonable  
13 doubt.

14 (9) If the allegations are not found to be true beyond  
15 a reasonable doubt, the petition shall be dismissed. If the child  
16 named in the petition had been held in continued custody pending  
17 the adjudication, the child shall be immediately released.

18 (10) If the allegations of the petition are found to  
19 be true beyond a reasonable doubt, the court shall adjudicate the  
20 child to be a child in need of state services. The court may:

21 (a) Place the child under the services of a probation  
22 officer; or

23 (b) (i) Order either the Office of Probation  
24 Administration or the administrator to prepare and file  
25 with the court a case plan for the care and services of the child

1 in need of state services;

2 (ii) Set a disposition hearing; and

3 (iii) Enter any orders for support appropriate under  
4 sections 53 to 61 of this act or required as reasonable efforts to  
5 preserve and reunify the family or to finalize a permanency plan.

6 Sec. 159. (1) All disposition hearings regarding children  
7 in need of state services shall be conducted on the record. The  
8 rules of evidence shall not apply.

9 (2) Every party to a proceeding regarding a child in need  
10 of state services shall be entitled to a copy of any case plan no  
11 less than five days prior to the disposition hearing.

12 (3) Every party to a proceeding regarding a child in need  
13 of state services shall have the right to present evidence at a  
14 disposition hearing.

15 (4) A case plan regarding a child in need of state  
16 services is presumed to be in the child's best interests and to  
17 specify the types of services and interventions reasonably likely  
18 to eliminate, moderate, or reduce the child's conduct specified  
19 in the petition. This presumption is rebuttable as provided in  
20 subsection (1) of section 105 of this act.

21 (5) The court shall adopt the case plan submitted by the  
22 probation officer or the administrator unless a party has shown by  
23 clear and convincing evidence that the case plan is either not:

24 (a) In the child's best interests; or

25 (b) Reasonably likely to eliminate, moderate, or reduce

1 the child's conduct specified in the petition.

2 (6) The court may commit the child in need of state  
3 services to the court and place the child in need of state  
4 services:

5 (a) Under the services of the probation officer; or

6 (b) Under the services of the administrator.

7 (7) The court shall, if it places the child pursuant to  
8 subdivision (6)(a) of this section:

9 (a) Set the terms and conditions of probation for the  
10 child in need of state services. The court shall explain to the  
11 child the potential consequences of violating those terms and  
12 conditions; and

13 (b) Specify whether the child shall be placed in or out  
14 of his or her home. If the court orders an out-of-home placement  
15 under the services of a probation officer, the court shall specify  
16 the placement.

17 (8) The court shall, if it places the child to the court  
18 pursuant to subdivision (6)(b) of this section:

19 (a) Order the types of services the administrator shall  
20 provide the child in need of state services. The administrator  
21 shall select the service provider; and

22 (b) Specify whether the child shall be placed in or out  
23 of his or her home. If the court orders an out-of-home placement  
24 for a child committed to the court, the court shall specify the  
25 type of placement and the administrator shall choose the specific

1 out-of-home placement.

2 (9) If any party proves by clear and convincing evidence  
3 that either the out-of-home placement or a specific service  
4 provider selected is not in the child's best interests or not  
5 reasonably likely to eliminate, moderate, or reduce the child's  
6 conduct specified in the petition, the court may specify another  
7 out-of-home placement or service provider. The administrator is  
8 responsible for the cost of services ordered by the court pursuant  
9 to this subsection.

10 (10) A child in need of state services shall not, as part  
11 of a disposition order, be placed in any facility used for the  
12 detention, safekeeping, or treatment of children alleged or found  
13 by a court to be children in need of state rehabilitation.

14 (11) In carrying out sections 134 to 160 of this act,  
15 the court may order the parents of a child found to be in need  
16 of state services to participate in family counseling and other  
17 professional counseling activities deemed reasonably necessary to  
18 eliminate, moderate, or reduce the child's conduct specified in  
19 the petition or to enhance their ability to provide the child  
20 with adequate support, guidance, and services. The court may also  
21 order that the parents support the child and participate with the  
22 child in fulfilling a court-imposed sanction. The court may use its  
23 contempt powers to enforce this subsection.

24 (12) A disposition order regarding a child in need of  
25 state services is a final order.

1           Sec. 160. Any final order regarding a child in need of  
2 state services may be appealed as set forth in section 217 of this  
3 act. Reviews by a juvenile review panel as provided in sections 109  
4 to 114 of this act do not apply to proceedings regarding children  
5 in need of state services.

6           Sec. 161. All proceedings regarding children in need of  
7 state rehabilitation are governed by sections 161 to 194 of this  
8 act.

9           Sec. 162. (1) The goals of sections 161 to 194 of this  
10 act are to:

11           (a) Develop a juvenile justice system in the state to  
12 protect the public, impose accountability for violations of law,  
13 and equip children in need of state rehabilitation with the skills  
14 needed to live responsibly and productively; and

15           (b) Prevent children's criminal behavior through the  
16 support of programs and services designed to meet the needs of  
17 children identified as being at risk of violating the law.

18           (2) The goals of sections 161 to 194 of this act shall be  
19 achieved by providing programs and services that:

20           (a) Retain and support children within their homes  
21 whenever possible and appropriate;

22           (b) Provide the least restrictive and most appropriate  
23 setting for children while adequately protecting the children and  
24 the public;

25           (c) Are community-based and are provided in as close

1 proximity to the child's community as possible and appropriate;

2 (d) Provide humane, secure, and therapeutic confinement  
3 to those children who present a danger to the public;

4 (e) Provide followup and aftercare services to children  
5 when returned to their families or communities to ensure that  
6 progress made and behaviors learned are integrated and continued;

7 (f) Hold children accountable for their unlawful behavior  
8 in a manner consistent with their criminal conduct, their long-term  
9 treatment needs, and the safety of the public;

10 (g) Base treatment planning and service provision upon  
11 an early, individualized assessment of a child's treatment needs,  
12 criminal conduct, and the safety of the public; and

13 (h) Are family focused and include the child's family  
14 in assessment, case planning, treatment, and service provision as  
15 appropriate.

16 Sec. 163. (1) The juvenile court shall have exclusive  
17 original jurisdiction over all children alleged to be children in  
18 need of state rehabilitation.

19 (2) The juvenile court shall have concurrent original  
20 jurisdiction with the county court over all children alleged to  
21 have committed:

22 (a) A traffic offense, other than a felony;

23 (b) A violation of the laws governing the purchase or  
24 possession of alcohol or tobacco by minors; or

25 (c) A violation of the laws governing hunting, fishing,

1 or trapping.

2 (3) When the interest of a child, over whom the juvenile  
3 court has jurisdiction under this section, is potentially adverse  
4 to that of the child's responsible adult, the court shall appoint  
5 counsel for the child.

6 Sec. 164. (1) A law enforcement officer without a warrant  
7 or order of the court may take emergency custody of a child when:

8 (a) A child has violated a state law or municipal  
9 ordinance in the presence of the law enforcement officer;

10 (b) A felony has been committed and the law enforcement  
11 officer has reasonable grounds to believe the child committed it;

12 (c) The law enforcement officer has reasonable cause to  
13 believe that a child in need of state rehabilitation:

14 (i) Has violated or is about to violate a condition of  
15 his or her parole or probation;

16 (ii) Will attempt to leave the jurisdiction;

17 (iii) Will place lives or property in danger unless taken  
18 into emergency custody; or

19 (iv) Has absconded or is attempting to abscond from a  
20 placement for evaluation or commitment to the office.

21 (2) A law enforcement officer with a court order  
22 authorizing emergency custody of a child who has violated the  
23 terms or conditions of his or her parole or probation may take  
24 emergency custody of such child.

25 (3) A law enforcement officer with a warrant of arrest

1 or apprehension may take emergency custody of the child in need of  
2 state rehabilitation.

3           Sec. 165. A law enforcement officer who takes emergency  
4 custody of a child under section 164 of this act:

5           (1) Shall immediately take reasonable measures to notify  
6 the child's responsible adults. The person notified shall be  
7 permitted to see and consult with the child in private at the place  
8 of detention;

9           (2) Shall, when such child is committed to the office  
10 or is under the services of a probation officer based on a prior  
11 placement or commitment, notify the child's parole or probation  
12 officer immediately, but in no event later than four hours after  
13 the child is taken into emergency custody;

14           (3) Shall, when such child is in emergency custody  
15 pursuant to a warrant, notify the court that issued the warrant  
16 that the juvenile has been taken into emergency custody; and

17           (4) May:

18           (a) Release the child to the child's responsible adult  
19 without bond if detention is not required;

20           (b) Release the child to the child's parole officer,  
21 probation officer, or to the office, if the child is under the  
22 services of a parole or probation officer or is committed to the  
23 office based on a prior commitment; or

24           (c) Maintain emergency custody of the child.

25           Sec. 166. (1) No child taken into emergency custody under

1 section 164 of this act without a warrant shall be considered  
2 to have been arrested, except for the purpose of determining the  
3 validity of such custody under the Constitution of Nebraska or the  
4 United States Constitution. A child taken into emergency custody  
5 under section 164 of this act with a warrant shall be considered to  
6 have been arrested.

7 (2) A child taken into emergency custody under section  
8 164 of this act has the right, without unnecessary delay, to call  
9 or consult an attorney. If the child cannot afford counsel and  
10 wishes to consult with an attorney prior to being questioned, the  
11 court shall appoint counsel for such purpose. No child thirteen  
12 years of age or younger may be questioned as a suspect about any  
13 felony unless he or she has consulted with an attorney prior to  
14 such questioning. This right to consult with an attorney prior to  
15 being questioned as a suspect about any felony cannot be waived.  
16 An attorney retained or on behalf of or appointed by the court for  
17 a child taken into emergency custody shall be permitted to consult  
18 with the child in private at the place of custody.

19 Sec. 167. (1) When secure detention of a child taken into  
20 emergency custody pursuant to section 164 of this act is necessary,  
21 such secure detention shall occur within a juvenile detention  
22 facility except:

23 (a) Within a metropolitan statistical area where no  
24 juvenile detention facility is reasonably available, the child may  
25 be delivered, for detention not to exceed six hours, to a secure

1 area of a jail or other facility intended or used for the detention  
2 of adults solely for the purposes of identifying the child and  
3 ascertaining the child's health and well-being and for safekeeping  
4 while awaiting transport to an appropriate juvenile placement or  
5 release to a responsible party; or

6 (b) Outside of a metropolitan statistical area where  
7 no juvenile detention facility is reasonably available, the child  
8 may be delivered, for detention not to exceed twenty-four hours  
9 and while awaiting an initial court appearance, to a secure area  
10 of a jail or other facility intended or used for the detention  
11 of adults solely for the purposes of identifying the child and  
12 ascertaining the child's health and well-being and for safekeeping  
13 while awaiting transport to an appropriate juvenile placement or  
14 release to a responsible party.

15 (2) No child under sixteen years of age in secure  
16 detention shall be held in a jail or other facility intended or  
17 used for the detention of adults, except that such child may be  
18 held in secure detention in a jail or other facility intended or  
19 used for the detention of adults if:

20 (a) There is no verbal, visual, or physical contact  
21 between the child and any incarcerated adult and there is adequate  
22 staff to supervise and monitor the child's activities at all times;  
23 and

24 (b)(i) Within the time limits specified in subsection (1)  
25 of this section, a felony charge is filed against the child as an

1 adult in county or district court. In such a case, the detention  
2 may continue beyond the specified time limits; or

3 (ii) The child is held for no more than six hours before  
4 and six hours after any court appearance.

5 Sec. 168. (1) A law enforcement officer prior to  
6 releasing a child pursuant to section 165 of this act shall:

7 (a) Prepare in triplicate a written notice requiring the  
8 child to appear before the juvenile court or probation officer of  
9 the county in which the child was taken into emergency custody at a  
10 time and place specified in the notice. The notice shall contain a  
11 concise statement of the reasons the child was taken into emergency  
12 custody;

13 (b) Deliver one copy of the notice to the child;

14 (c) Require the child and the child's responsible adult  
15 to sign a written promise that such signers will appear at the time  
16 and place designated in the notice;

17 (d) Immediately release the child upon the execution of  
18 the promise to appear;

19 (e) As soon as practicable, file one copy of the notice  
20 with:

21 (i) The county attorney;

22 (ii) The child's juvenile parole officer, if the child  
23 has previously been committed to the office, or the child's  
24 probation officer, if the child is under the services of a  
25 probation officer; and

1           (iii) When required by the juvenile court, with the  
2 juvenile court, a person appointed by the court for such purpose,  
3 or a probation officer.

4           (2) Willful failure to either appear as required by the  
5 notice or promise to appear or to surrender within three days  
6 thereafter shall be:

7           (a) A Class IV felony if the offense alleged in the  
8 criminal complaint or petition was a felony; or

9           (b) A Class II misdemeanor if the offense alleged in the  
10 criminal complaint or petition was a misdemeanor.

11           (3) The court may issue a warrant for the arrest or  
12 apprehension of a person who either willfully failed to appear as  
13 required or to surrender within three days of the date set forth in  
14 the notice and promise to appear.

15           Sec. 169. (1) If the law enforcement officer maintains  
16 emergency custody of a child pursuant to section 165 of this act,  
17 either a criminal complaint charging the child with a violation of  
18 the criminal law or a petition alleging the child to be a child in  
19 need of state rehabilitation shall be filed no later than twelve  
20 hours after the child was taken into emergency custody pursuant to  
21 section 164 of this act.

22           (2) The criminal complaint or petition shall be made  
23 on information and belief and shall be verified as provided in  
24 subdivision (7) of section 49-1504.

25           (3) No later than forty-eight hours after the child was

1 taken into emergency custody pursuant to subsection (1) or (2) of  
2 section 164 of this act, a court of competent jurisdiction shall:

3 (a) Determine whether the criminal complaint or petition  
4 establishes probable cause to believe that the crime alleged in the  
5 complaint was committed and the child in detention committed it or  
6 the child is a child in need of state rehabilitation as alleged in  
7 the petition;

8 (b) Document whether probable cause is established and  
9 affix the court's signature on the face of the criminal complaint  
10 or petition;

11 (c) Set a time and date for a hearing to determine  
12 whether the child shall be in detention, if the court determines  
13 probable cause was established. This detention hearing shall be  
14 held within twenty-four hours after the time the child was taken  
15 into emergency custody; and

16 (d) If the court determines probable cause was not  
17 established, order the child immediately released unconditionally.

18 (4) No later than seventy-two hours after the child was  
19 taken into emergency custody pursuant to subsection (3) of section  
20 164 of this act, the child shall be brought before the judge that  
21 issued the arrest warrant.

22 Sec. 170. (1) An action seeking to have a child found to  
23 be a child in need of state rehabilitation shall be commenced by  
24 filing a petition in the office of the clerk of the juvenile court.

25 (2) A petition alleging a child to be in need of state

1 rehabilitation shall only be filed by the county attorney.

2 (3) A petition alleging a child to be in need of state  
3 rehabilitation shall include:

4 (a) The name of the court and county in which the action  
5 is brought;

6 (b) The names of the parties;

7 (c) A statement of the facts, in ordinary and concise  
8 language, showing the child to be a child in need of state  
9 rehabilitation with reference to the criminal statute the child is  
10 alleged to have violated;

11 (d) A statement as to whether the child is in emergency  
12 custody or detention;

13 (e) If the child is in emergency custody, a statement as  
14 to whether the petitioner is seeking detention of the child. If  
15 the petitioner is seeking detention, the court shall set a hearing  
16 to determine the issue. The hearing regarding detention shall be  
17 conducted as provided in section 169 of this act; and

18 (f) If the child is in detention, the date, time, and  
19 place of any hearing regarding the child's detention, a statement  
20 that at such hearing the child has the rights stated in section 175  
21 of this act, and a copy of all documents filed with the court prior  
22 to filing of the petition.

23 (4) A petition alleging a child to be a child in need of  
24 state rehabilitation may include a statement that the state intends  
25 to seek extended juvenile jurisdiction over the child. If notice of

1 intent to seek extended juvenile jurisdiction is included in the  
2 petition, the facts supporting such a request shall be included in  
3 the petition. If notice to seek extended juvenile jurisdiction is  
4 not included in the petition, the court shall not order extended  
5 juvenile jurisdiction.

6 (5) A petition may be amended any time prior to the entry  
7 of an order adjudicating a child to be a child in need of state  
8 rehabilitation.

9 (6) Every petition alleging a child to be a child in need  
10 of state rehabilitation shall be made on information and belief  
11 and shall be verified as provided in subdivision (7) of section  
12 49-1504.

13 (7) The court shall, upon request, appoint counsel for  
14 a child upon the filing of a petition alleging the child to be a  
15 child in need of state rehabilitation if the child or the child's  
16 responsible adult cannot afford counsel. If the child named in the  
17 petition is under twelve years of age, the court shall appoint  
18 counsel if the child is not represented and cannot afford counsel  
19 regardless of whether the child requests counsel.

20 Sec. 171. (1) Every party to an action regarding a child  
21 in need of state rehabilitation shall be served with a summons and  
22 a copy of the petition. The court shall endorse on the summons that  
23 the proceeding is one to find a child to be a child in need of  
24 state rehabilitation, shall set the time and place for an initial  
25 hearing, and shall cause service to be made.

1           (2) Except as provided in subsection (3) of this section,  
2 service shall be made in accordance with sections 25-505.01 to  
3 25-514.01 and:

4           (a) Personal or residence service under section 25-505.01  
5 shall be effected at least seventy-two hours before the time set  
6 for a hearing; and

7           (b) Certified mail service under section 25-505.01 shall  
8 be mailed at least five days before the date set for a hearing.

9           (3) Substitute and constructive notice may be permitted  
10 by the court, as provided in sections 25-517.02 to 25-527 and:

11           (a) Authorization of substitute or constructive service  
12 shall not expand the time a child in need of state rehabilitation  
13 can be held in detention without judicial review; and

14           (b) When the court authorizes substitute or constructive  
15 service, the court shall set hearings so parties who are the  
16 subject of such service have adequate time to prepare, consistent  
17 with the best interests of the child and the purposes of the  
18 Nebraska Juvenile Code.

19           (4) A party's voluntary appearance is the equivalent to  
20 service, except that a child's appearance is not the equivalent of  
21 service.

22           (5) A party may, either in writing or in open court  
23 on the record, waive the requirement for seventy-two-hour notice,  
24 except that no child in need of state rehabilitation shall be  
25 deemed to have waived the right to seventy-two-hour notice unless

1 he or she has consulted with counsel or a guardian ad litem and  
2 the court finds such waiver to be knowing and voluntary and in  
3 the child's best interests. The court shall personally address the  
4 child and the child's counsel or guardian ad litem before making  
5 such a finding.

6           Sec. 172. (1) Upon a motion by the county attorney, the  
7 court shall conduct a hearing, at which the county attorney shall  
8 produce evidence to enable the court to determine:

9           (a) Whether probable cause exists to believe that the  
10 offense alleged in the petition has been committed and that the  
11 child named in the petition has committed it, unless such proof  
12 has been elicited at a prior hearing on continued detention of the  
13 child and such findings have been made by the same judge who is  
14 conducting the waiver proceeding; and

15           (b) Whether the child is amenable to treatment,  
16 considering the factors listed in this section. A child is amenable  
17 to treatment if there is a reasonable probability the child can  
18 be rehabilitated prior to the child's twenty-first birthday or, if  
19 the child is subject to expanded juvenile jurisdiction, the child's  
20 twenty-fifth birthday.

21           (2) A child may consent to expanded juvenile  
22 jurisdiction. The child's consent to expanded juvenile jurisdiction  
23 shall be knowing and voluntary. In determining whether the child's  
24 consent is knowing and voluntary, the court shall consider the  
25 factors listed in subdivision (1) (a) of section 177 of this act.

1           (3) Factors the court shall consider in determining  
2 whether the child is amenable to treatment are:

3           (a) The type of treatment to which the child would most  
4 likely be amenable;

5           (b) Whether there are services and facilities available  
6 to the court for treatment and rehabilitation of the child;

7           (c) The treatment resources available in the adult  
8 correctional system for the child if treated as an adult;

9           (d) The likelihood of the child's reasonable  
10 rehabilitation through the use of services and facilities  
11 that are currently available to the court;

12           (e) Evidence that the alleged offense included violence  
13 or was committed in an aggressive and premeditated manner. Evidence  
14 the child was in possession of a firearm during commission of  
15 the offense creates a rebuttable presumption the offense included  
16 violence and was committed in an aggressive and premeditated  
17 manner. Evidence that the child was not in possession of a firearm  
18 during commission of the offense does not create any presumption  
19 regarding this factor;

20           (f) The motivation for the commission of the offense;

21           (g) The child's age and the ages and circumstances of any  
22 others involved in the offense;

23           (h) The child's history, including whether he or she had  
24 been convicted of any previous offenses or adjudicated in juvenile  
25 court, and, if so, whether such offenses were crimes against

1 the person or relating to property and other previous history of  
2 antisocial behavior, if any, including any patterns of physical  
3 violence;

4 (i) The sophistication and maturity of the child as  
5 determined by consideration of his or her home, school activities,  
6 emotional attitude, desire to be treated as an adult, and pattern  
7 of living and whether he or she has had previous contact with law  
8 enforcement agencies and courts and the nature thereof;

9 (j) Whether the best interests of the child and the  
10 safety of the public require that the child continue in detention  
11 or under state rehabilitation beyond the child's twenty-first or to  
12 his or her twenty-fifth birthday, depending on whether the child  
13 is subject to extended juvenile jurisdiction or expanded juvenile  
14 jurisdiction;

15 (k) Whether the seriousness of the offense and public  
16 safety requires isolation or restriction of the child beyond  
17 that afforded by services or facilities available to the court,  
18 including extended juvenile jurisdiction; and

19 (l) Such other matters as the court deems relevant.

20 Sec. 173. (1) If the juvenile court finds by clear and  
21 convincing evidence that the child named in the petition is not  
22 amenable to treatment, the juvenile court shall waive jurisdiction  
23 over the child.

24 (2) If the juvenile court waives jurisdiction, the  
25 juvenile court shall:

1           (a) Set forth findings for the reason for its decision;

2           (b) Designate where the child shall be kept pending  
3 determination by the court that would have had jurisdiction if an  
4 adult had committed the offense;

5           (c) Transfer the complete file to the appropriate court;  
6 and

7           (d) Close the case.

8           Sec. 174. (1) A waiver of jurisdiction over a child  
9 pursuant to sections 172 to 174 of this act shall constitute a  
10 waiver of jurisdiction over that child for the offense upon which  
11 the motion is based as well as for all pending and subsequent  
12 offenses of whatever nature.

13           (2) If the child is acquitted of the offense for which  
14 the court has waived jurisdiction, the waiver shall be vacated and  
15 shall be of no effect in any pending or subsequent case.

16           (3) Statements made by the child at the hearing under  
17 section 167 of this act are not admissible against the child over  
18 objection in the criminal proceedings following the transfer except  
19 for impeachment.

20           (4) The order granting or denying waiver of jurisdiction  
21 is not a final order.

22           Sec. 175. When a petition alleges a child to be a child  
23 in need of state rehabilitation, the court shall, at the initial  
24 hearing, inform the parties of:

25           (1) The contents of the petition;

- 1           (2) The nature of the proceedings;
- 2           (3) The possible consequences or dispositions that  
3 may apply to the child's case following an adjudication of  
4 jurisdiction, including imposition of an adult sentence under  
5 section 188 of this act;
- 6           (4) Such child's right to counsel;
- 7           (5) The privilege against self-incrimination by advising  
8 the child and the child's responsible adult that the child may  
9 remain silent concerning the charges against the child and that  
10 anything said may be used against the child;
- 11           (6) The right to confront anyone who testifies against  
12 the child and to cross-examine any persons who appear against the  
13 child;
- 14           (7) The right of the child to testify and to compel other  
15 witnesses to attend and testify in his or her own behalf;
- 16           (8) The right of the child to a speedy adjudication  
17 hearing; and
- 18           (9) The right to appeal and to have a transcript for such  
19 purpose.
- 20           Sec. 176. After being informed of the rights in section  
21 175 of this act, the child may:
- 22           (1) Enter a denial of the allegations in the petition;
- 23           (2) Remain mute, in which case the court shall enter a  
24 denial of the allegations in the petition;
- 25           (3) Enter a plea of no contest to any or all of the

1 allegations of the petition. An accepted plea of no contest shall  
2 have the same effect as an admission to the allegations; or

3 (4) Admit all or any of the allegations in the petition.

4 Sec. 177. (1) The court may only accept an in-court  
5 admission or a plea of no contest by the child to all or any part  
6 of the allegations in the petition if:

7 (a) The court has determined from examination of the  
8 child and those present that the child has voluntarily and  
9 knowingly waived his or her rights listed in section 175 of  
10 this act. A child under the age of fourteen who is alleged in  
11 the petition to have committed any felony cannot waive his or her  
12 rights without first consulting the child's responsible adult. A  
13 child under the age of fourteen who is alleged in the petition to  
14 have committed a Class III or higher felony cannot waive his or her  
15 rights without first consulting an attorney. If the child or the  
16 child's responsible adults cannot afford to retain counsel for this  
17 purpose, the court shall appoint counsel. In determining whether  
18 a waiver of any right is voluntary and knowing, the court shall  
19 consider the child's ability to:

20 (i) Understand the charges;

21 (ii) Understand the roles of participants in the trial  
22 process, including the judge, defense attorney, prosecutor,  
23 witnesses, and jury, and understand the adversarial nature of the  
24 process;

25 (iii) Reason about available options by weighing his or

1 her consequences, including, but not limited to, weighing pleas,  
2 waivers, and strategies;

3 (iv) Understand and appreciate the charges and their  
4 seriousness;

5 (v) Understand and realistically appraise the likely  
6 outcome of the waiver;

7 (vi) Extend thinking into the future; and

8 (vii) Express himself or herself in a reasonable and  
9 coherent manner; and

10 (b) The court has determined a factual basis for such  
11 admission or plea of no contest exists. The factual basis may be  
12 established by:

13 (i) Facts contained in an affidavit filed with the court;

14 (ii) The sworn testimony of a person with knowledge of  
15 the facts establishing the child is a child in need of state  
16 rehabilitation; or

17 (iii) The representations of the county attorney  
18 regarding the facts establishing that the child is a child in need  
19 of state rehabilitation, if accepted as true by the child, the  
20 child's responsible adult, and the child's attorney.

21 (2)(a) If the court accepts an admission or plea of no  
22 contest and finds that a factual basis exists for the admission or  
23 plea of no contest, the court shall adjudicate the child to be a  
24 child in need of state rehabilitation, unless the court finds such  
25 an adjudication to be contrary to the interests of justice.

1           (b) If the court finds that such adjudication is contrary  
2 to the interests of justice, the court shall state the reasons for  
3 such finding in detail and enter a denial on behalf of the child.

4           (c) A finding made under this subsection is not a final  
5 order.

6           Sec. 178. (1) If the county attorney believes a child to  
7 be a child in need of state rehabilitation because of a nonviolent  
8 act or acts, the county attorney may, prior to filing a petition,  
9 offer mediation to the child and the victim of the child's act. If  
10 both the child and the victim agree to mediation, the child in need  
11 of state rehabilitation, the child's responsible adult, and the  
12 victim shall sign a mediation consent form and select a mediator or  
13 mediation center. The county attorney shall refer the child and the  
14 victim to such mediator or mediation center. The mediation sessions  
15 shall occur within thirty days after the date that the county  
16 attorney makes the mediation referral unless the county attorney  
17 approves an extension. The child or the child's responsible adult  
18 shall pay the mediation fees. The fee shall be determined by the  
19 mediator in private practice or by the approved center. A child  
20 shall not be denied services at a mediation center because of an  
21 inability to pay.

22           (2) Terms of a mediation agreement shall specify  
23 monitoring, completion, and reporting requirements. The county  
24 attorney, the court, or the probation office shall be notified by  
25 the designated monitor if the child in need of state rehabilitation

1 does not complete the agreement within the agreement's specified  
2 time.

3 (3) Terms of the agreement may include one or more of the  
4 following:

5 (a) Participation by the child in certain community  
6 service programs;

7 (b) Payment of restitution by the child to the victim;

8 (c) Reconciliation between the child and the victim; and

9 (d) Any other areas of agreement.

10 (4) If no mediation agreement is reached, the mediator  
11 or mediation center shall report that fact to the county attorney  
12 within forty-eight hours of the final mediation session excluding  
13 nonjudicial days.

14 (5) If a mediation agreement is reached and the agreement  
15 does not violate public policy, the agreement shall be approved  
16 by the county attorney. If the agreement is not approved and  
17 the victim agrees to return to mediation, (a) the child in need  
18 of state rehabilitation may be referred back to mediation with  
19 suggestions for changes needed in the agreement to gain approval or  
20 (b) the county attorney may proceed with the filing of a criminal  
21 complaint or juvenile court petition. If the child agrees to return  
22 to mediation but the victim does not agree to return to mediation,  
23 the county attorney may consider the child's willingness to return  
24 to mediation when determining whether or not to file a criminal  
25 complaint or juvenile court petition.

1           (6) If the child meets the terms of an approved mediation  
2 agreement, the county attorney shall not file a criminal complaint  
3 or juvenile court petition against the child for the acts for which  
4 the child was referred to mediation.

5           Sec. 179. (1) If a denial to the allegations is entered  
6 by the child or by the court on the child's behalf pursuant to  
7 section 176 of this act, the court shall schedule an adjudication  
8 hearing.

9           (2) If the child is in emergency custody or detained, the  
10 adjudication hearing shall be held within ninety days after the  
11 date the child was first taken into emergency custody or detained.

12           (3) If the child is not in emergency custody or detained,  
13 the adjudication hearing shall be held within one hundred twenty  
14 days after the date the petition was filed.

15           (4) Computation of the time specified in this section  
16 shall be in accordance with section 29-1207. Any waiver of the  
17 right to a speedy adjudication shall be made by the child  
18 personally. The court shall address the child to determine the  
19 waiver is knowing and voluntary. In making this determination, the  
20 court shall consider the factors listed in subdivision (1)(a) of  
21 section 177 of this act.

22           (5) If the adjudication hearing is not held within the  
23 time specified in this section, the child shall be released and the  
24 petition dismissed.

25           (6) Dismissal of a petition for failure to hold the

1 adjudication within the time specified in this section shall  
2 constitute a complete bar to refiling a petition based on the same  
3 set of facts.

4           Sec. 180. The purposes of the adjudication are to protect  
5 the public safety and the best interests of the child in need  
6 of state rehabilitation and to determine whether the allegations  
7 contained in the petition are true.

8           Sec. 181. (1) All parties shall be present at the  
9 adjudication. If a party other than the child alleged to be a child  
10 in need of state rehabilitation has received service as required  
11 and does not appear at the adjudication, the hearing shall not be  
12 continued unless:

13                   (a) The court finds the absence is justified;

14                   (b) A continuance is in the child's best interest; and

15                   (c) The continuance is required in the interests of  
16 justice.

17           (2) If a child alleged to be a child in need of state  
18 rehabilitation willfully fails to appear at an adjudication hearing  
19 after receiving service, the court may issue an order authorizing  
20 a law enforcement officer to apprehend the child. A child detained  
21 pursuant to such an order shall have the rights listed in section  
22 175 of this act.

23           Sec. 182. (1) An adjudication hearing regarding a child  
24 alleged to be a child in need of state rehabilitation shall be  
25 conducted on the record and without a jury. The rules of evidence

1 shall apply.

2 (2) The child named in the petition shall have the rights  
3 prescribed in subdivisions (4) through (9) of section 175 of this  
4 act. The child shall also have the right to have the allegations  
5 against him or her found to be true beyond a reasonable doubt.

6 (3) If the allegations are not found to be true beyond  
7 a reasonable doubt, the petition shall be dismissed. If the child  
8 named in the petition had been detained pending the adjudication,  
9 the child shall be immediately released.

10 (4) If the allegations of the petition are found to be  
11 true beyond a reasonable doubt, the court shall adjudicate the  
12 child to be a child in need of state rehabilitation. The court may  
13 immediately proceed to disposition as provided in section 183 of  
14 this act or may:

15 (a) Place the child with the office for an evaluation  
16 as defined in section 43-403 and order the office to prepare and  
17 file with the court a case plan for the rehabilitation, care, and  
18 services of the child in need of state rehabilitation; and

19 (b) Set a disposition hearing. The disposition hearing  
20 shall be held no later than forty-five days after the adjudication  
21 if the child in need of state rehabilitation is detained and no  
22 later than sixty days after the adjudication if the child is not  
23 detained.

24 (c) The court shall also enter any support orders  
25 required by sections 53 to 61 of this act or required as reasonable

1 efforts to preserve and reunify the family or to finalize a  
2 permanency plan.

3 (5) A finding that a child is not a child in need of  
4 state rehabilitation may not be appealed. A finding that a child is  
5 a child in need of state rehabilitation is not a final order until  
6 a disposition order is entered.

7 Sec. 183. When a child is adjudicated to be a child in  
8 need of state rehabilitation, the court may:

9 (1) If the conduct alleged in the petition consists  
10 of a nonviolent act or acts and the child in need of state  
11 rehabilitation has not previously been adjudicated because of a  
12 violent act or acts, the court may, with agreement of the victim,  
13 order the child in need of state rehabilitation to attend mediation  
14 with a mediator or at a mediation center;

15 (2) Place the child on probation. A child on probation  
16 is subject to the services of a probation officer. The court  
17 shall order the conditions of probation that the court finds will  
18 further the child's reformation or rehabilitation. The court shall  
19 explain the conditions of probation to the child in need of state  
20 rehabilitation and shall explain the possible consequences of the  
21 child's failure to obey the conditions of probation. The child  
22 shall demonstrate on the record his or her understanding of the  
23 conditions of probation and the possible consequences of failing to  
24 obey the conditions. The child shall sign, on a form provided by  
25 the court, an acknowledgment that the conditions of probation were

1 explained, that the child understands the explanation, and that the  
2 child understands the possible consequences of failing to obey the  
3 conditions of probation. When the court places a child in need of  
4 state rehabilitation under the services of a probation officer, the  
5 court may:

6 (a) Permit the child to remain in his or her own home; or

7 (b) Cause the child to be placed in a suitable family  
8 home, facility, or institution;

9 (3) Commit such child to the office, consistent with  
10 the Health and Human Services, Office of Juvenile Services Act.

11 A child under the age of twelve years shall not be placed at  
12 a youth rehabilitation and treatment center or juvenile detention  
13 facility unless he or she has violated the terms of probation or  
14 has committed an additional offense and the court finds that the  
15 interests of the child and the welfare of the public demand his  
16 or her commitment to such center or facility. This minimum age  
17 provision shall not apply if the act in question is murder or  
18 manslaughter;

19 (4) In addition to or instead of any other authorized  
20 disposition, the court may impose a disciplinary disposition. A  
21 disciplinary disposition is a disposition which has as its primary  
22 focus the expression of public condemnation of the conduct of  
23 the child which resulted in a finding that the child is a child  
24 in need of state rehabilitation. A disciplinary disposition may  
25 include detention not to exceed sixty days, community service not

1 to exceed two hundred hours, a fine not to exceed two thousand  
2 five hundred dollars, or any combination of such sanctions. Fines  
3 may be paid by community service at an hourly rate determined by  
4 the court. The hourly rate shall be, at a minimum, equal to the  
5 minimum wage rate in section 48-1203. Any disciplinary disposition  
6 shall be consistent with the policy stated in section 162 of  
7 this act. The court shall specify the goal or goals listed in  
8 subsection (2) of section 162 of this act that will be furthered by  
9 the particular disciplinary disposition imposed. In fashioning the  
10 disciplinary disposition, the court shall consider the following  
11 factors: the nature of the adjudicated offense; the child's age and  
12 state rehabilitation history; the extent and apparent sincerity of  
13 the child's expressed remorse regarding the adjudicated offense;  
14 and the manner and consistency of parental discipline reflected  
15 in the record. The court shall recite its consideration of these  
16 factors on the record in the presence of the child; or

17 (5) In addition to or in the place of any other  
18 authorized disposition, the court may impose a treatment-focused  
19 disposition. A treatment-focused disposition is a disposition that  
20 has as its primary focus providing rehabilitative services designed  
21 to prevent recurrence of the conduct which resulted in a finding  
22 the child was a child in need of state rehabilitation. The  
23 treatment-focused disposition shall include the child's family and  
24 shall be either recommended or assented to by the office.

25 (6) A disposition order entered under this section is a

1 final order and may be appealed as provided in section 217 of this  
2 act.

3           Sec. 184. A juvenile court shall not in any case impose  
4 or suspend imposition of a sentence of death.

5           Sec. 185. In carrying out sections 161 to 194 of this  
6 act, the court may order the responsible adults of a child in  
7 need of state rehabilitation to participate in family counseling  
8 and other professional counseling activities deemed necessary  
9 for the rehabilitation of the child or to enhance the ability  
10 of the responsible adults to provide the child with adequate  
11 support, guidance, and services. The court may also order that the  
12 responsible adults support the child and participate with the child  
13 in fulfilling a court-imposed sanction. In addition, the court may  
14 use its contempt powers to enforce a court-imposed sanction.

15           Sec. 186. (1) Whenever a child in need of state  
16 rehabilitation is placed under the services of a probation officer,  
17 the probation officer or a county attorney may request the court  
18 modify or revoke that probation. The request shall be in writing  
19 and shall include:

20           (a) The terms or conditions of probation the child is  
21 alleged to have violated;

22           (b) The facts supporting the allegation; and

23           (c) A statement regarding the necessity, due to the  
24 likelihood of the child causing harm to others or to himself or  
25 herself or failing to appear in court as required, of detaining the

1 child pending a judicial determination of the request, including  
2 any facts supporting a request for such detention.

3 (2) If the court determines that the request is  
4 supported by probable cause to believe the child in need of state  
5 rehabilitation has violated the terms or conditions of probation  
6 imposed by the court, the court shall set a time and date for  
7 a hearing to determine whether probation should be revoked or  
8 modified. If the court finds the request is not supported by  
9 probable cause, it shall deny the request.

10 (3) If the court finds from the facts presented in  
11 the request that there is probable cause to believe the child  
12 will cause harm to himself or herself or to others or will fail  
13 to appear as required, the court may order the child detained  
14 pending a judicial determination of the request to revoke or modify  
15 probation.

16 (4) A request to modify or revoke the probation of a  
17 child in need of state rehabilitation shall be served on the  
18 parties to the original action at least seventy-two hours prior to  
19 the hearing on the request.

20 (5) A child held in emergency custody for probation  
21 violation under section 164 of this act or detained under  
22 subsection (3) of this section shall not be held longer than  
23 twenty hours, excluding nonjudicial days, without a probable cause  
24 hearing.

25 (a) The rules of evidence shall not apply at the probable

1 cause hearing.

2 (b) The child shall have the following rights at the  
3 probable cause hearing:

4 (i) To be present;

5 (ii) To counsel, if the child was represented by counsel  
6 at the hearing at which probation was imposed;

7 (iii) To confront and cross-examine witnesses; and

8 (iv) To make a statement.

9 (6) If the court finds, from the evidence presented, that  
10 there is probable cause to believe the child violated the terms  
11 or conditions of probation and that the child may cause harm to  
12 himself, herself, or others or may fail to appear as required,  
13 the court may order the child detained pending the hearing on the  
14 request to revoke or modify probation.

15 (7) If the court finds, from the evidence presented, that  
16 there is no probable cause to believe the child violated the terms  
17 or conditions of probation, it shall deny the request to revoke or  
18 modify probation and order the child released.

19 (8) If the court finds probable cause to believe the  
20 child in need of state rehabilitation violated the terms or  
21 conditions of probation, but not that the child may cause harm to  
22 himself, herself, or others or may fail to appear, the court shall  
23 order the child to appear at the hearing on the request and order  
24 the child released from detention.

25 Sec. 187. (1) A hearing to revoke or modify the probation

1 of a child in need of state rehabilitation shall be conducted  
2 by the court imposing probation when possible. If the court that  
3 ordered the original disposition of probation is unavailable, the  
4 hearing to revoke or modify probation may be held by any juvenile  
5 court where venue is otherwise proper. The hearing shall be  
6 conducted on the record. The rules of evidence shall not apply at a  
7 hearing to revoke or modify probation.

8 (2) The hearing to revoke or modify probation shall be  
9 held no later than fourteen days after a child is held in emergency  
10 custody under section 164 of this act and no later than thirty days  
11 after a request to revoke or modify probation is filed if the child  
12 is not held in emergency custody or detained.

13 (3) The child in need of state rehabilitation shall have  
14 the following rights at a hearing to revoke or modify probation:

15 (a) To have written notice of the allegations of specific  
16 violations of conditions of probation and of any facts in support  
17 of the allegations;

18 (b) To have at least seventy-two hours notice of the  
19 hearing;

20 (c) To be present at the hearing;

21 (d) To have counsel, and to have counsel appointed if  
22 necessary;

23 (e) To confront and cross-examine adverse witnesses;

24 (f) To present witnesses and evidence on his or her own  
25 behalf; and

1           (g) To make a statement on his or her own behalf.

2           (4) If the court finds by a preponderance of the evidence  
3 that the child has violated the terms or conditions of probation,  
4 the court may modify or revoke probation and impose any disposition  
5 authorized by section 183 of this act.

6           (5) If the court does not find by a preponderance of the  
7 evidence that the child has violated the terms or conditions of  
8 probation, the court shall deny the request to modify or revoke  
9 probation and, if the child has been held in emergency custody or  
10 detained, release the child.

11           (6) A finding that a child in need of state  
12 rehabilitation has violated the terms or conditions of probation  
13 is a final order and may be appealed as provided in section 217  
14 of this act.

15           Sec. 188. If the court finds by a preponderance of the  
16 evidence that a child previously found to be in need of state  
17 rehabilitation and who is under probation, parole, or commitment  
18 to the office has violated a juvenile disposition order or has  
19 subsequently been found again to be a child in need of state  
20 rehabilitation or guilty of committing a new offense or finds by  
21 clear and convincing evidence that the child is not amenable to  
22 state rehabilitation in the juvenile system, the court may:

23           (1) Amend the disposition to any juvenile disposition  
24 authorized in section 183 of this act; or

25           (2) Exercise its discretion to impose any adult sentence

1 available in district or county court, including probation,  
2 suspended imposition of sentence, or imprisonment. A sentence of  
3 imprisonment shall not exceed forty years, except that a child  
4 adjudicated for murder in the first degree may be sentenced for any  
5 term up to and including life in prison.

6           Sec. 189. (1) The county attorney may request extended  
7 juvenile jurisdiction designation in a petition to find a child in  
8 need of state rehabilitation or in a separate motion if:

9           (a) The child is alleged in a petition to have committed  
10 a felony in any degree;

11           (b) The child is alleged in a petition to have committed  
12 a misdemeanor involving the use of a weapon;

13           (c) The child is alleged in a petition to have committed  
14 a misdemeanor sexual offense and the victim was at least two years  
15 younger than the alleged offender; or

16           (d) The child has previously been found by any court  
17 of competent jurisdiction to have committed a violation of law  
18 punishable by one or more years of imprisonment.

19           (2) The child's attorney may file a motion to request  
20 extended juvenile jurisdiction designation if the county attorney  
21 could have filed a request pursuant to this section.

22           (3) When a party requests an extended juvenile  
23 jurisdiction designation, the court shall hold a designation  
24 hearing no later than sixty days after the request is filed with  
25 the court. If the child is in detention, the designation hearing

1 shall be held no later than thirty days after the request is filed  
2 with the court. The time shall be computed in accordance with  
3 section 29-1207.

4 (4) The party requesting the extended juvenile  
5 jurisdiction designation has the burden to prove by clear and  
6 convincing evidence that such designation is warranted.

7 Sec. 190. The court shall make written findings and  
8 consider all of the following factors in making its determination  
9 whether to designate a child as an extended juvenile jurisdiction  
10 offender:

11 (1) The type of treatment to which the child would most  
12 likely be amenable;

13 (2) Whether there are facilities or programs available to  
14 the court which are likely to rehabilitate the child prior to the  
15 expiration of the court's juvenile jurisdiction;

16 (3) The motivation for the commission of the offense;

17 (4) The age of the child and the ages and circumstances  
18 of any others involved in the offense;

19 (5) The previous history of the child, including  
20 whether the child had been convicted of any previous offenses or  
21 adjudicated in juvenile court, and, if so, whether such offenses  
22 were crimes against the person or relating to property, and other  
23 previous history of antisocial behavior, if any, including any  
24 patterns of physical violence;

25 (6) The sophistication and maturity of the child as

1 determined by consideration of the child's home, school activities,  
2 emotional attitude, desire to be treated as an adult, and pattern  
3 of living and whether the child has had previous contact with law  
4 enforcement agencies or courts and the nature thereof;

5 (7) Whether the best interests of the child and the  
6 safety of the public require that the child continue in detention  
7 or under probation, parole, or commitment to the office for a  
8 period extending beyond the child's minority and, if so, the  
9 available alternatives best suited to this purpose;

10 (8) The seriousness of the alleged offense and whether  
11 public safety requires prosecution as an extended juvenile  
12 jurisdiction offender;

13 (9) Whether the alleged offense was committed in an  
14 aggressive, violent, premeditated, or willful manner;

15 (10) Whether the alleged offense was against a person  
16 or property, with greater weight being given to offenses against  
17 persons, especially if personal injury resulted;

18 (11) The culpability of the child, including the level of  
19 planning and participation in the alleged offense;

20 (12) Whether the child acted alone or was part of a group  
21 in the commission of the alleged offense; and

22 (13) Any other factors deemed relevant by the court.

23 Sec. 191. (1)(a) If the juvenile court designates the  
24 child as an extended juvenile jurisdiction offender, the court  
25 shall enter its written findings, inform the child of the right to

1 a jury, and set a date for adjudication.

2 (b) The child may waive the right to a jury only after  
3 being advised of his or her rights and after consultation with the  
4 child's attorney.

5 (c) Any waiver of the right to a jury shall be in writing  
6 and signed by the child, the child's attorney, the child's guardian  
7 ad litem, if one has been appointed, and the child's responsible  
8 adult. The court shall inquire on the record to ensure that the  
9 waiver was made in a knowing and voluntary manner. In making  
10 this determination, the court shall consider the factors listed in  
11 subdivision (1)(a) of section 177 of this act.

12 (d) The state shall also have the right to a jury at the  
13 adjudication hearing in an extended juvenile jurisdiction case.

14 (e) All provisions of the Nebraska statutes, including  
15 the rules of criminal procedure, not in conflict with the Nebraska  
16 Juvenile Code, that regulate criminal jury trials in county or  
17 district courts shall apply to jury adjudications for children  
18 subject to extended juvenile jurisdiction designation.

19 (2) If the court denies the request for extended  
20 juvenile jurisdiction designation, the court shall enter its  
21 written findings and proceed with the case as a child in need  
22 of state rehabilitation proceedings.

23 (3) A decision regarding designation as an extended  
24 juvenile jurisdiction offender is a final order and may be appealed  
25 as provided in section 217 of this act.

1           (4) A request for extended juvenile jurisdiction  
2 designation shall not extend the time limits for holding an  
3 adjudication hearing in section 179 of this act.

4           (5) A child designated as an extended juvenile  
5 jurisdiction offender has a right to counsel at every stage of the  
6 proceedings, including all reviews. This right to counsel cannot  
7 be waived.

8           Sec. 192. (1) If a child is found to be a child in  
9 need of state rehabilitation as an extended juvenile jurisdiction  
10 offender, the court may enter any of the juvenile dispositions  
11 authorized by section 183 of this act and suspend the imposition of  
12 any adult sentence authorized by law pending juvenile court review.

13           (2) The state may at any time request that the juvenile  
14 court impose an adult sentence if an extended juvenile jurisdiction  
15 offender:

16           (a) Is determined to have violated a juvenile disposition  
17 order as provided in section 185 of this act;

18           (b) Has been adjudicated to be a child in need of state  
19 rehabilitation or found guilty of committing a new offense; or

20           (c) Is determined by the court after a hearing to be  
21 not amenable to state rehabilitation in the juvenile system. Any  
22 hearing to determine amenability to treatment shall be conducted as  
23 specified in section 172 of this act.

24           Sec. 193. (1) A child may file a motion with the court  
25 to modify the disposition under section 192 of this act at any

1 time. If the child's initial motion is denied, the child shall wait  
2 six months from the date of the denial to file a new motion for  
3 modification.

4 (2) The court may grant the child's motion to modify the  
5 disposition if the court finds by clear and convincing evidence:

6 (a) Such a modification is in the child's best interests; (b)  
7 the child has been rehabilitated; and (c) such a modification is  
8 consistent with public safety.

9 (3) The party filing a motion to modify such disposition  
10 bears the burden of proof.

11 Sec. 194. (1) The court has sole authority to discharge  
12 a child subject to extended juvenile jurisdiction. Any party  
13 may request discharge at any time prior to expiration of the  
14 disposition order under section 192 of this act. The court shall  
15 schedule a hearing to determine whether discharge shall be granted.  
16 The filing party has the burden of proving by clear and convincing  
17 evidence that discharge of the child is in the best interests of  
18 the child and public safety.

19 (2) (a) If no review hearing has been requested six months  
20 prior to the child's eighteenth birthday, the court shall conduct  
21 a discharge assessment hearing to determine whether to discharge  
22 the child, amend the disposition under section 192 of this act, or  
23 impose an adult sentence.

24 (b) In making its determination, the court shall  
25 consider:

1           (i) The experience and character of the child before  
2 and after the disposition, including compliance with the court's  
3 orders;

4           (ii) The nature of the offense or offenses and the manner  
5 in which the offense or offenses were committed;

6           (iii) The recommendations of the treatment and law  
7 enforcement professionals who have worked with the child;

8           (iv) The need for protection of public safety; and

9           (v) The opportunities provided to the child for  
10 rehabilitation and the child's efforts toward rehabilitation.

11           (c) If the state requests imposition of an adult sentence  
12 at a discharge assessment hearing, the state shall prove by clear  
13 and convincing evidence that the imposition of an adult sentence is  
14 required to protect public safety.

15           (d) Following a discharge assessment hearing the court  
16 may:

17           (i) Discharge the child;

18           (ii) Amend or add any juvenile disposition; or

19           (iii) Exercise its discretion to impose any adult  
20 sentence available in either district or county court, including  
21 probation, suspended imposition of sentence, or imprisonment. A  
22 sentence of imprisonment imposed under this section shall not  
23 exceed forty years, except for a child adjudicated for murder in  
24 the first degree who may be sentenced for any term up to and  
25 including life in prison.

1           (3) Children committed to the Department of Correctional  
2 Services pursuant to extended juvenile jurisdiction are subject  
3 to adult parole as any other inmate within the Department of  
4 Correctional Services. Children adjudicated for murder in the first  
5 degree are subject to adult parole supervised by the Department  
6 of Correctional Services, not juvenile parole supervised by the  
7 office.

8           (4) A child receiving an adult sentence under extended  
9 juvenile jurisdiction not requiring commitment to the Department  
10 of Correctional Services shall be treated as any other person  
11 receiving such a sentence except that he or she remains subject to  
12 the jurisdiction of the juvenile court.

13           (5) A child receiving an adult sentence under extended  
14 juvenile jurisdiction shall receive credit for time served in a  
15 secure juvenile detention facility or a youth rehabilitation and  
16 treatment center. Credit for time served shall be computed as  
17 required by section 83-1,106.

18           Sec. 195. Proceedings regarding the emancipation of  
19 children are governed by section 195 to 201 of this act.

20           Sec. 196. (1) The purposes of sections 195 to 201 of this  
21 act are:

22           (a) To provide a clear statement defining emancipation  
23 and its consequences; and

24           (b) To permit a child to obtain a court declaration of  
25 emancipation.

1           (2) Sections 195 to 201 of this act are not intended to  
2 interfere with the integrity of the family or the rights of parents  
3 and their children.

4           Sec. 197. (1) A child may petition the court in the  
5 judicial district in which the child resides at the time of the  
6 filing for an order of emancipation. The petition shall state:

7           (a) The child's name and date of birth;

8           (b) The child's address;

9           (c) The names and addresses, if known, of the child's  
10 responsible adults;

11           (d) The names and addresses of any guardians or  
12 custodians of the child;

13           (e) Specific facts in support of the emancipation  
14 criteria in subsection (2) of this section; and

15           (f) Specific facts as to the reasons why emancipation is  
16 sought.

17           (2) In order to become an emancipated child by court  
18 order, a child at the time of the order shall:

19           (a) Be sixteen years of age or older and under eighteen  
20 years of age;

21           (b) Have lived separate and apart from the child's  
22 responsible adult for three months or longer;

23           (c) Be managing his or her own financial affairs;

24           (d) Have demonstrated the ability to be self-sufficient  
25 in his or her financial and personal affairs, including proof of

1 employment or his or her other means of support; and

2 (e) Hold a high school diploma or its equivalent or be  
3 earning passing grades in an educational program approved by the  
4 court and directed towards the earning of a high school diploma or  
5 its equivalent.

6 (3) A child cannot file a petition for emancipation  
7 unless the child has lived in Nebraska three months or longer.

8 Sec. 198. (1) Upon the filing of a petition for  
9 emancipation, every party shall be served with a summons and a  
10 copy of the petition. The court shall endorse on the summons that  
11 the proceeding is one for emancipation of a child, shall set the  
12 time and place for an initial hearing, and shall cause service to  
13 be made.

14 (2) Except as provided in subsection (3) of this section,  
15 service shall be made in accordance with sections 25-505.01 to  
16 25-514.01 and:

17 (a) Personal or residence service under section 25-505.01  
18 shall be effected at least seventy-two hours before the time set  
19 for a hearing; and

20 (b) Certified mail service under section 25-505.01 shall  
21 be mailed at least five days before the date set for a hearing.

22 (3) Substitute and constructive notice may be permitted  
23 by the court, as provided in sections 25-517.02 to 25-527. When  
24 the court authorizes substitute or constructive service, the court  
25 shall set hearings so parties who are the subject of such service

1 have adequate time to prepare, consistent with the best interests  
2 of the child and the purposes of the Nebraska Juvenile Code.

3 (4) The child's responsible adults shall be parties to  
4 the proceedings and shall be given an opportunity to be heard.

5 (5) If the child has received services or treatment  
6 from the administrator or the department, the administrator or  
7 department shall be a party to the proceeding.

8 Sec. 199. (1) Upon the filing of the petition for  
9 emancipation, the court shall schedule a hearing.

10 (2) Any action under sections 195 to 201 of this act  
11 may be consolidated with any other action in the juvenile court  
12 involving the interest or welfare of the child.

13 (3) The burden of proving facts necessary to sustain the  
14 petition shall be on the child and the standard of proof shall be  
15 proof by a preponderance of the evidence.

16 (4) At the hearing on the petition, the court shall  
17 address the child personally and advise him or her of the  
18 consequences of emancipation.

19 (5) The court may request copies of records in  
20 the custody of the school district, the Office of Probation  
21 Administration, the administrator, the department, or any other  
22 public or private agency to assist in making its determination.  
23 The court may further request a recommendation from the probation  
24 officer or any other public or private agency that may have  
25 communicated with the child regarding the petition.

1           (6) At the time of the hearing under this section, the  
2 court shall consider the best interests of the child in accordance  
3 with the following criteria:

4           (a) Whether emancipation will create a risk of harm to  
5 the child;

6           (b) The likelihood the child will be able to assume adult  
7 responsibilities;

8           (c) The child's adjustment to living separate and apart  
9 from the child's responsible adult; and

10           (d) The opinion and recommendations of the child's  
11 responsible adult.

12           (7) The court may appoint a guardian ad litem for the  
13 child seeking emancipation.

14           Sec. 200. (1) After completion of the hearing and  
15 consideration of the evidence, the court shall make findings  
16 and issue its order. If the court finds that the child meets the  
17 criteria in subsections (2) and (3) of section 197 of this act and  
18 that emancipation would be in the best interests of the child, the  
19 court shall issue an order of emancipation.

20           (2) The court may require an emancipated child to report  
21 periodically to the court or to another person specified by the  
22 court, regarding the child's compliance with subsection (2) of  
23 section 197 of this act. Failure to report as required may result  
24 in the emancipation order being vacated upon notice to the parties.

25           (3) An order of emancipation shall be conclusive evidence

1 that the child is emancipated.

2 (4) Any judgment or order allowing or denying  
3 emancipation is a final order and may be appealed as provided in  
4 section 217 of this act.

5 Sec. 201. (1) Any order of guardianship or custody  
6 shall be vacated when the court issues an order of emancipation.  
7 Other orders of the court may be vacated, modified, or continued  
8 in the emancipation proceeding if such action is necessary to  
9 effectuate the order of emancipation. Child support orders relating  
10 to the support of the child shall be vacated, except for the  
11 duty to make past-due payments for child support, which, under all  
12 circumstances, shall remain enforceable.

13 (2) The order of emancipation shall recognize the child  
14 as an adult for all purposes that result from reaching the age of  
15 majority, including:

16 (a) Entering into a binding contract, litigation, and  
17 settlement of controversies, including the ability to sue and be  
18 sued;

19 (b) Buying or selling real property;

20 (c) Establishing a residence, except that an emancipation  
21 order may not be used for the purpose of obtaining residency and  
22 in-state tuition or benefits at the University of Nebraska or the  
23 Nebraska state colleges pursuant to section 85-502;

24 (d) Being prosecuted as an adult under the criminal laws  
25 of the state;

1           (e) Terminating parental support and control of the child  
2 and parental rights to the child's income;

3           (f) Terminating parental tort liability for the child;  
4 and

5           (g) Indicating the child's emancipated status on a motor  
6 vehicle operator's license or a state identification card issued by  
7 the state.

8           (3) The order of emancipation shall not affect the  
9 status of the child in the applicability of any provision of  
10 law which requires specific age requirements under the United  
11 States Constitution or the Constitution of Nebraska or any state  
12 or federal law, including laws that prohibit the sale, purchase,  
13 or consumption of intoxicating liquor to or by a person under  
14 twenty-one years of age.

15           (4) A child who is emancipated by the lawful procedure of  
16 another state shall retain that status in Nebraska and shall enjoy  
17 the benefits of this section while in Nebraska.

18           (5) The method of emancipation of a child provided for  
19 in sections 195 to 201 of this act is in addition to and not in  
20 substitution of any other method of emancipation provided by common  
21 law.

22           Sec. 202. All proceedings regarding the mental health  
23 commitment of children are governed by sections 202 to 216 of this  
24 act.

25           Sec. 203. (1) The purposes of sections 202 to 216 of this

1 act are to:

2 (a) Provide prompt, necessary protection and mental  
3 health treatment of children in need of state mental health  
4 treatment; and

5 (b) Safeguard the rights to due process for children and  
6 their families through judicial review.

7 (2) Legally emancipated minors in need of mental health  
8 commitment shall be considered adults and shall not be committed  
9 under sections 202 to 216 of this act.

10 Sec. 204. (1) A child may be taken into emergency custody  
11 by a law enforcement officer without a warrant or order of the  
12 court when the law enforcement officer believes the child to be a  
13 child in need of state mental health treatment and that the harm  
14 described in section 10 of this act is likely to occur before  
15 proceedings can be instituted before the juvenile court.

16 (2) If the law enforcement officer takes emergency  
17 custody of a child under this section, the law enforcement officer  
18 shall place the child at a mental health center for evaluation and  
19 emergency treatment.

20 (3) At the time of the emergency placement at a  
21 mental health center, the law enforcement officer responsible for  
22 taking emergency custody of the child shall prepare a certificate  
23 alleging:

24 (a) The child is a child in need of state mental health  
25 treatment;

1           (b) The harm described in section 10 of this act is  
2 likely to occur before proceedings before a juvenile court may be  
3 invoked to obtain custody of the child; and

4           (c) A summary of the child's behavior supporting the  
5 allegations.

6           (4) The certificate shall be in a form prescribed by the  
7 department.

8           (5) A copy of the certificate shall be forwarded to the  
9 county attorney.

10           Sec. 205. (1) A law enforcement officer taking a child  
11 into emergency custody under section 204 of this act shall  
12 notify the child's responsible adult of the child's placement.  
13 In determining the appropriate temporary placement of a child, the  
14 law enforcement officer shall select the placement that is least  
15 restrictive of the child's freedom so long as such placement is  
16 compatible with the best interests of the child and the public  
17 safety.

18           (2) Any time a child is taken into emergency custody  
19 and temporarily placed at a mental health center, a mental health  
20 professional shall evaluate the mental condition of the child as  
21 soon as reasonably possible but not later than thirty-six hours  
22 after the child's admission, unless the child was evaluated by a  
23 mental health professional immediately prior to the child being  
24 placed in emergency custody and the custody is based upon the  
25 conclusions of that evaluation. The mental health professional

1 who performed the evaluation prior to the emergency custody or  
2 immediately after the emergency custody shall, without delay,  
3 convey the results of his or her evaluation to the county attorney.

4 (3) If it is the judgment of the mental health  
5 professional that the child is not a child in need of state mental  
6 health treatment, the mental health professional shall immediately  
7 notify the county attorney of that conclusion. The county attorney  
8 shall either request a preliminary review of the evidence by the  
9 court within forty-eight hours of such notification or order the  
10 immediate release of the child from emergency custody. Such release  
11 shall not prevent the county attorney from proceeding on a petition  
12 alleging the child to be a child in need of state mental health  
13 treatment.

14 Sec. 206. (1)(a) The court shall conduct a preliminary  
15 review of the evidence to determine if probable cause exists for  
16 continued custody of the child.

17 (b) This preliminary review shall occur no later than  
18 forty-eight hours after the child was taken into emergency custody.

19 (c) If the court finds that probable cause does not  
20 exist, the court shall issue an order of release for the child.

21 (d) Upon a finding of probable cause, the court shall  
22 make a written order detailing its findings and may order the  
23 continued custody of the child at the mental health center.

24 (e) The court shall appoint counsel for the child if he  
25 or she has not retained counsel and fix a date for an adjudication

1 hearing. The hearing shall be held within seven days after the date  
2 the child was taken into emergency custody or was admitted to the  
3 mental health center, whichever day is sooner.

4 (2) A child taken into emergency custody under section  
5 204 of this act shall have the right to an adjudication hearing  
6 within seven days unless the matter is continued. Continuances  
7 shall be liberally granted at the request of the child or  
8 the child's guardian ad litem, attorney, or responsible adult.  
9 Continuances may be granted to permit the child an opportunity to  
10 obtain voluntary treatment.

11 Sec. 207. (1) All costs of custody and placement under  
12 sections 202 to 216 of this act shall be the responsibility of the  
13 county where the child was taken into custody.

14 (2) The court may enter an order of support pursuant to  
15 sections 53 to 61 of this act if requested by the county attorney.

16 Sec. 208. (1) A county attorney may file a petition with  
17 a court alleging a child to be a child in need of state mental  
18 health treatment. The petition shall state:

19 (a) The name, date of birth, and location of the child;  
20 and

21 (b) The facts supporting the allegation that the child  
22 is a child in need of state mental health treatment, including  
23 the conclusions of any evaluations conducted by a mental health  
24 professional.

25 (2) Upon receipt of a petition alleging a child to be a

1 child in need of state mental health treatment, the court shall set  
2 a date and time for the adjudication hearing, not later than either  
3 seven days after the filing of the petition or seven days after the  
4 child was taken into emergency custody, whichever day is sooner.

5 (3) The court shall assign a place for the adjudication  
6 hearing and shall cause reasonable notice thereof to be given to  
7 the child, the child's responsible adult, and the mental health  
8 center named in the petition.

9 (4) The notice shall inform the parties that:

10 (a) They have a right to be present at the adjudication;

11 (b) They have a right to present evidence and to  
12 cross-examine witnesses testifying at any hearing upon such  
13 petition;

14 (c) The court has appointed an attorney and a guardian  
15 ad litem to represent the child and the names, addresses, and  
16 telephone numbers of such attorney and guardian ad litem; and

17 (d) The child's responsible adult may be represented by  
18 an attorney and if he or she cannot afford an attorney, that the  
19 court shall appoint an attorney to represent him or her.

20 (5) The notice to the mental health center shall inform  
21 such center of the time and place of the hearing and request that,  
22 if such facility is unable to admit such child, it shall so inform  
23 the court immediately.

24 Sec. 209. (1) Prior to a hearing under sections 202 to  
25 216 of this act, counsel for the child and counsel for the child's

1 responsible adult, respectively, shall be afforded access to all  
2 relevant records and shall be entitled to take notes from those  
3 records.

4 (2) If a child is committed at the time any hearing is  
5 held under sections 210 to 216 of this act, the mental health  
6 center shall make available at such hearing for use by the court,  
7 the child's counsel, and by counsel for the child's responsible  
8 adult all records in its possession relating to the child's need  
9 for commitment.

10 Sec. 210. (1) Commitment hearings shall take precedence  
11 over all other matters before the court, except pending cases of  
12 the same type.

13 (2) At the request of counsel for such child or if, in  
14 the opinion of at least one physician, the child could be a danger  
15 to himself or herself or others or it would be detrimental to the  
16 child's health and welfare to travel to the court facility hearing  
17 the application, then such hearing shall be held at the mental  
18 health center in which the child is in custody. In that event, such  
19 center shall provide adequate facilities for such hearing.

20 (3) The court hearing the matter shall require a sworn  
21 certificate from at least two impartial physicians selected by the  
22 court, one of whom shall be a physician specializing in psychiatry.  
23 Both physicians shall be licensed to practice medicine in this  
24 state and shall have practiced medicine for at least one year. The  
25 certificates shall include a statement from each physician that he

1 or she has personally examined such child within ten days of the  
2 hearing.

3 (4) The child shall be present at the commitment hearing,  
4 except that court may exclude the child from such portions of the  
5 hearing at which testimony is given which the court determines  
6 would be seriously detrimental to the child's emotional or mental  
7 condition.

8 (5) If the child is medicated at the time of the  
9 commitment hearing, a representative from the mental health center  
10 shall inform the court of such fact and of the common effects of  
11 such medication.

12 (6) All interested parties have the right to present  
13 evidence and cross-examine witnesses who testify at the commitment  
14 hearing.

15 Sec. 211. (1) If, after hearing the evidence, the court  
16 finds by clear and convincing evidence that the child suffers from  
17 a mental disorder and is in need of commitment for treatment of  
18 the mental disorder, that treatment for the mental disorder is  
19 available, and that commitment is the least restrictive available  
20 alternative to receive treatment, the court shall find the child  
21 to be a child in need of state mental health treatment and shall  
22 commit the child for a definite period not to exceed six months to  
23 a mental health center to be named in the court's order. If the  
24 court does not make such finding, the child shall be released.

25 (2) Unless already at the mental health center, the order

1 shall direct some suitable person to convey the child to the  
2 mental health center together with a copy of the court's order of  
3 commitment. In appointing a person to execute such order, the court  
4 shall give preference to a near relative or friend of the child,  
5 so far as it deems safe, practicable, and judicious. All costs for  
6 transportation shall be paid in accordance with section 207 of this  
7 act.

8           Sec. 212. (1) Any child who has been committed by any  
9 court to a mental health center may be transferred to any other  
10 mental health center upon agreement of the respective mental health  
11 centers.

12           (2) All transfer agreements shall be in writing and  
13 executed in triplicate and in accordance with a form prescribed  
14 by the Attorney General, which form shall be uniform throughout  
15 the state. One copy of the transfer agreement shall be filed for  
16 record in the court that committed the child, and one copy shall  
17 be retained in the files of each of the mental health centers  
18 participating in the transfer.

19           (3) A transfer agreement shall have the same effect as an  
20 order of the court committing the person named in the order.

21           (4) No transfer shall be made until the child's  
22 responsible adult has received written notification. The  
23 responsible adult of any child so transferred, or the child's  
24 next friend, may make application to the court that made the  
25 order of commitment for revocation or modification of the transfer

1 agreement. Such application shall act as a stay of a proposed  
2 transfer. The court shall provide such notice of the time and place  
3 of hearing on the application as the court finds reasonable. After  
4 the hearing, the court may revoke, modify, or affirm the proposed  
5 transfer.

6           Sec. 213. The mental health center to which the child  
7 was committed or transferred shall release the child when, based  
8 upon determination of the child's physician, the mental health  
9 center concludes that the child is no longer in need of inpatient  
10 care at the mental health center. The mental health center shall  
11 notify the court that committed the child to a mental health center  
12 and all parties to the action at least five days prior to the  
13 child's release of the center's intent to release the child. The  
14 notification shall include a statement of reasons for the proposed  
15 release and a copy of the aftercare plan required by section 215 of  
16 this act.

17           Sec. 214. (1) No later than three days prior to the  
18 expiration of a period of commitment, any person may file an  
19 application for recommitment.

20           (2) The application for recommitment shall be filed in  
21 the court that heard the original commitment application.

22           (3) An application for recommitment shall be brought in  
23 conformity with this section and may result in a further commitment  
24 for a definite period not to exceed six months.

25           (4) The committed child is entitled to the same rights

1 and procedures as in the hearing on the original petition for  
2 commitment.

3 (5) If an application for recommitment is filed, the  
4 original commitment or recommitment order shall be extended for a  
5 sufficient time to hold a hearing under this section, except that  
6 the order shall not be extended for more than five days beyond the  
7 expiration of the original commitment or recommitment.

8 (6) Reccommitment hearings shall take precedence over all  
9 other matters before the court, except other pending recommitment  
10 cases and commitment hearings, which shall take precedence over all  
11 cases.

12 Sec. 215. An aftercare plan shall be developed for a  
13 child in need of state mental health treatment who is being  
14 considered for release from commitment. The plan shall include  
15 educational or training needs if these are necessary for the  
16 child's well-being.

17 Sec. 216. All records, including the petition, of all  
18 proceedings brought under sections 202 to 216 of this act are  
19 confidential and shall not be disclosed without an order of the  
20 court. The court shall not order disclosure unless the child's  
21 best interests are furthered by such disclosure. Any unauthorized  
22 release or publication of such records is a Class III misdemeanor.

23 Sec. 217. (1) A party may appeal any final order of  
24 a juvenile court to the Court of Appeals in the same manner as  
25 an appeal from the district court to the Court of Appeals. The

1 appellate court shall conduct its review within the same time and  
2 in the same manner prescribed by law for review of an order,  
3 judgment, or decree of the district court, except that review of  
4 juvenile review panel decisions shall be conducted as provided in  
5 sections 109 to 114 of this act. All appeals from the juvenile  
6 court shall be advanced for argument before the appellate court,  
7 which shall decide the matter as speedily as possible.

8 (2) When an action has been instituted before a juvenile  
9 court, the original jurisdiction of the court shall continue except  
10 as provided in the Nebraska Juvenile Code. All orders shall remain  
11 in full force and effect pending final disposition of the appeal  
12 unless stayed by the appellate court.

13 (3) The appellate court, upon application and hearing,  
14 may stay any order on appeal. The appellate court shall enter  
15 any order for the custody of a child which the appellate court  
16 determines to be in the child's best interests. Such orders shall  
17 only be entered after an appeal is perfected, and such order ceases  
18 to be of force and effect upon return of jurisdiction to the trial  
19 court.

20 (4) If the appellate court finds the child to be a child  
21 in need of state protection, state services, state rehabilitation,  
22 or state mental health treatment or affirms a child's emancipation,  
23 the appellate court shall affirm the disposition of the juvenile  
24 court unless it is shown by clear and convincing evidence that  
25 the disposition of the juvenile court is not in the child's best

1 interests.

2 (5) If the appellate court reverses the order of the  
3 juvenile court and finds a child not to be a child in need of  
4 state protection, state services, state rehabilitation, or state  
5 mental health treatment or sets aside a child's emancipation, the  
6 appellate court shall vacate all orders of the juvenile court  
7 arising out of that adjudication.

8 (6) An appeal of a case regarding a child in need of  
9 state rehabilitation in which the child has been placed in jeopardy  
10 may only be taken by exception proceedings pursuant to sections  
11 29-2317 to 29-2319. However, decisions regarding the transfer of  
12 a case from juvenile court to county or district court, the  
13 granting or denial of extended juvenile jurisdiction designation,  
14 or the revocation of probation may be appealed as provided in this  
15 section.

16 (7) In all appeals from a juvenile court, the judgment of  
17 the appellate court shall be certified without cost to the juvenile  
18 court for further proceedings consistent with the determination of  
19 the appellate court.

20 Sec. 218. (1) If a child is adjudged to be a child in  
21 need of state services or a child in need of state rehabilitation  
22 and has satisfactorily completed his or her disposition  
23 requirements, any interested party may request the court which  
24 entered the adjudication to set aside that adjudication.

25 (2) In determining whether to set aside the adjudication,

1 the court shall consider:

2 (a) The behavior of the child after the adjudication and  
3 his or her response to services or to rehabilitation programs;

4 (b) Whether setting aside the adjudication will  
5 depreciate the seriousness of the child's conduct or promote  
6 disrespect for law; and

7 (c) Whether the failure to set aside the adjudication may  
8 result in disabilities disproportionate to the conduct upon which  
9 the adjudication was based.

10 (3) After hearing, the court may grant the request and  
11 issue an order setting aside the adjudication when in the opinion  
12 of the court the order will be in the best interest of the child  
13 and consistent with the public welfare.

14 (4) When the court issues an order setting aside the  
15 adjudication, the order shall also require that all records  
16 relevant to the adjudication be sealed. Such records shall not  
17 be available to the public except upon the order of the court  
18 for good cause shown. The court order may include all records  
19 of the court, law enforcement officers, county attorneys, or any  
20 other person which may have such records. Notice of hearing to  
21 set aside the adjudication and seal the records shall be given to  
22 the county attorney and any person that may be affected by such  
23 order by delivering by hand or by registered or certified mail  
24 a copy of the request and the order of the court which states  
25 the time for hearing to the last-known address of such person

1 at least ten days before the date for hearing. Any person who  
2 fails to comply with the order of the court or knowingly reveals  
3 information covered by such order may be held in contempt of court,  
4 except that this section does not prohibit law enforcement agencies  
5 from maintaining data to assist law enforcement officers, county  
6 attorneys, and sentencing judges in the investigation of crimes and  
7 the prosecution and sentencing of criminal defendants.

8           Sec. 219. Section 23-1201, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           23-1201 (1) Except as provided in subdivision (2) of  
11 section 84-205 or if a person is participating in a pretrial  
12 diversion program established pursuant to sections 29-3601 to  
13 29-3604, ~~or a juvenile pretrial diversion program established~~  
14 ~~pursuant to sections 43-260.02 to 43-260.07,~~ it shall be the duty  
15 of the county attorney, when in possession of sufficient evidence  
16 to warrant the belief that a person is guilty and can be convicted  
17 of a felony or misdemeanor, to prepare, sign, verify, and file  
18 the proper complaint against such person and to appear in the  
19 several courts of the county and prosecute the appropriate criminal  
20 proceeding on behalf of the state and county. Prior to reaching  
21 a plea agreement with defense counsel, the county attorney shall  
22 consult with or make a good faith effort to consult with the victim  
23 regarding the content of and reasons for such plea agreement. The  
24 county attorney shall record such consultation or effort in his or  
25 her office file.

1           (2) It shall be the duty of the county attorney to  
2 prosecute or defend, on behalf of the state and county, all suits,  
3 applications, or motions, civil or criminal, arising under the laws  
4 of the state in which the state or the county is a party or  
5 interested. The county attorney may be directed by the Attorney  
6 General to represent the state in any action or matter in which  
7 the state is interested or a party. When such services require the  
8 performance of duties which are in addition to the ordinary duties  
9 of the county attorney, he or she shall receive such fee for his  
10 or her services, in addition to the salary as county attorney, as  
11 (a) the court shall order in any action involving court appearance  
12 or (b) the Attorney General shall authorize in other matters,  
13 with the amount of such additional fee to be paid by the state.  
14 It shall also be the duty of the county attorney to appear and  
15 prosecute or defend on behalf of the state and county all such  
16 suits, applications, or motions which may have been transferred  
17 by change of venue from his or her county to any other county  
18 in the state. Any counsel who may have been assisting the county  
19 attorney in any such suits, applications, or motions in his or  
20 her county may be allowed to assist in any other county to which  
21 such cause has been removed. The county attorney shall file the  
22 annual inventory statement with the county board of county personal  
23 property in his or her possession as provided in sections 23-346 to  
24 23-350. It shall be the further duty of the county attorney of each  
25 county, within three days from the calling to his or her attention

1 of any violation of the requirements of the law concerning annual  
2 inventory statements from county officers, to institute proceedings  
3 against such offending officer and in addition thereto to prosecute  
4 the appropriate action to remove such county officer from office.  
5 When it is the county attorney who is charged with failure to  
6 comply with this section, the Attorney General of Nebraska may  
7 bring the action. It shall be the duty of the county attorney  
8 to make a report on the tenth day of each quarter to the county  
9 board which shall show final disposition of all criminal cases  
10 the previous quarter, criminal cases pending on the last day of  
11 the previous quarter, and criminal cases appealed during the past  
12 quarter. The county board in counties having less than two hundred  
13 thousand population may waive the duty to make such report.

14           Sec. 220. Section 24-313, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           24-313 The district court may by rule compel an inferior  
17 court or board to allow an appeal or to make or amend records  
18 according to law either by correcting an evident mistake or  
19 supplying an evident omission. This section shall not apply ~~to~~  
20 ~~cases in which a review by a juvenile review panel may be requested~~  
21 ~~under sections 43-287.01 to 43-287.06 or~~ if the Administrative  
22 Procedure Act otherwise provides.

23           Sec. 221. Section 24-519, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           24-519 Clerk magistrates shall have authority to perform

1 the following duties:

2 (1) To conduct any proceeding which is based on a  
3 misdemeanor, traffic infraction, violation of a city or village  
4 ordinance, or traffic violation or infraction under the laws of  
5 this state, except the trial of defendants who plead not guilty  
6 or for whom a not guilty plea has been entered. Any penalty  
7 imposed under this subdivision shall be made pursuant to a schedule  
8 established by the Supreme Court. Such schedule shall not provide  
9 for imprisonment;

10 (2) To conduct any proceeding for the issuance of  
11 warrants for arrest or for searches and seizures when no county or  
12 district judge is available in the county;

13 (3) To hear and determine any nonfelony proceeding for  
14 preliminary examination to determine probable cause or the release  
15 on bail of persons charged with bailable offenses;

16 (4) To determine ~~temporary custody of a juvenile pursuant~~  
17 ~~to sections 43-251, 43-253, 43-254, and 43-258.~~ emergency custody  
18 of a child under the Nebraska Juvenile Code. An order of a clerk  
19 magistrate shall be reviewed by the county judge upon the written  
20 request of any party to the action within ten days of the order.  
21 Such order may be affirmed, modified, or set aside by the county  
22 judge. The clerk magistrate may also appoint a guardian ad litem as  
23 ~~provided in section 43-272.01;~~ under the code;

24 (5) To hear and determine noncontested proceedings  
25 relating to decedents' estates, inheritance tax matters, and

1 guardianship or conservatorship, except that matters relating to  
2 the construction of wills and trusts, the determination of title to  
3 real estate, and an authorization of the sale or mortgaging of real  
4 estate shall not be heard by a clerk magistrate; and

5 (6) To enter orders for hearings and trials, including  
6 orders for garnishment and hearings on distribution of garnished  
7 funds.

8 Sec. 222. Section 25-1901, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 25-1901 A judgment rendered or final order made by any  
11 tribunal, board, or officer exercising judicial functions and  
12 inferior in jurisdiction to the district court may be reversed,  
13 vacated, or modified by the district court, except that the  
14 district court shall not have jurisdiction over (1) appeals from  
15 a juvenile court as defined in section ~~43-245~~, 30 of this act,  
16 (2) appeals from a county court in matters arising under the  
17 Nebraska Probate Code or the Nebraska Uniform Trust Code, in  
18 matters involving adoption or inheritance tax, or in domestic  
19 relations matters, or (3) appeals within the jurisdiction of the  
20 Tax Equalization and Review Commission.

21 Sec. 223. Section 25-2728, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 25-2728 (1) Any party in a civil case and any defendant  
24 in a criminal case may appeal from the final judgment or final  
25 order of the county court to the district court of the county where

1 the county court is located. In a criminal case, a prosecuting  
2 attorney may obtain review by exception proceedings pursuant to  
3 sections 29-2317 to 29-2319.

4 (2) Sections 25-2728 to 25-2738 shall not apply to:

5 (a) Appeals in eminent domain proceedings as provided in  
6 sections 76-715 to 76-723;

7 (b) Appeals in proceedings in the county court sitting as  
8 a juvenile court as provided in ~~sections 43-287.01 to 43-287.06,~~  
9 ~~43-2,106, and 43-2,106.01,~~ the Nebraska Juvenile Code;

10 (c) Appeals in matters arising under the Nebraska Probate  
11 Code as provided in section 30-1601;

12 (d) Appeals in matters arising under the Nebraska Uniform  
13 Trust Code;

14 (e) Appeals in adoption proceedings as provided in  
15 section 43-112;

16 (f) Appeals in inheritance tax proceedings as provided in  
17 section 77-2023; and

18 (g) Appeals in domestic relations matters as provided in  
19 section 25-2739.

20 Sec. 224. Section 25-2908, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 25-2908 Consistent with the purposes and objectives of  
23 the Dispute Resolution Act and in consultation with the council,  
24 the director shall:

25 (1) Make information on the formation of centers

1 available statewide and encourage the formation of centers;

2 (2) Approve centers which meet requirements for approval;

3 (3) Develop a uniform system of reporting and collecting  
4 statistical data from approved centers;

5 (4) Develop a uniform system of evaluating approved  
6 centers;

7 (5) Prepare a yearly budget for the implementation of the  
8 act and distribute funds to approved centers;

9 (6) Develop guidelines for a sliding scale of fees to be  
10 charged by approved centers;

11 (7) Develop curricula and initiate training sessions for  
12 mediators and staff of approved centers and of courts;

13 (8) Establish volunteer training programs;

14 (9) Promote public awareness of the dispute resolution  
15 process;

16 (10) Apply for and receive funds from public and private  
17 sources for carrying out the purposes and obligations of the act;

18 and

19 (11) Develop a uniform system to create and maintain a  
20 roster of mediators for juvenile offender and victim mediation, as  
21 provided in section ~~43-245~~, 178 of this act, and centers approved  
22 under section 25-2909. The roster shall be made available to courts  
23 and county attorneys.

24 Sec. 225. Section 28-377, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   28-377 Except as otherwise provided in sections 28-376  
2 to 28-380, no person, official, or agency shall have access  
3 to the records relating to abuse unless in furtherance of  
4 purposes directly connected with the administration of the Adult  
5 Protective Services Act and section ~~28-726~~ 279 of this act.

6 Persons, officials, and agencies having access to such records  
7 shall include, but not be limited to:

8                   (1) A law enforcement agency investigating a report of  
9 known or suspected abuse;

10                  (2) A county attorney in preparation of an abuse  
11 petition;

12                  (3) A physician who has before him or her a person whom  
13 he or she reasonably suspects may be abused;

14                  (4) An agency having the legal responsibility or  
15 authorization to care for, treat, or supervise an abused vulnerable  
16 adult;

17                  (5) Defense counsel in preparation of the defense of a  
18 person charged with abuse;

19                  (6) Any person engaged in bona fide research or auditing,  
20 except that no information identifying the subjects of the  
21 report shall be made available to the researcher or auditor.  
22 The researcher shall be charged for any costs of such research  
23 incurred by the department at a rate established by rules and  
24 regulations adopted and promulgated by the department;

25                  (7) The designated protection and advocacy system

1 authorized pursuant to the Developmental Disabilities Assistance  
2 and Bill of Rights Act, 42 U.S.C. 6000, as the act existed on  
3 September 1, 2001, and the Protection and Advocacy for Mentally Ill  
4 Individuals Act, 42 U.S.C. 10801, as the act existed on September  
5 1, 2001, acting upon a complaint received from or on behalf of a  
6 person with developmental disabilities or mental illness; and

7 (8) For purposes of licensing providers of child care  
8 programs, the department.

9 Sec. 226. Section 29-401, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 29-401 Every sheriff, deputy sheriff, marshal, deputy  
12 marshal, security guard, police officer, or peace officer as  
13 defined in subdivision (15) of section 49-801 shall arrest and  
14 detain any person found violating any law of this state or any  
15 legal ordinance of any city or incorporated village until a legal  
16 warrant can be obtained, except that (1) any such law enforcement  
17 officer taking a juvenile child under the age of ~~eighteen~~ nineteen  
18 years into his or her custody for any violation herein defined  
19 shall proceed as set forth in ~~sections 43-248, 43-250, and 43-253~~  
20 the Nebraska Juvenile Code and (2) the court in which the juvenile  
21 child is to appear shall not accept a plea from the juvenile child  
22 until finding that the parents responsible adults of the juvenile  
23 child have been notified or that reasonable efforts to notify such  
24 parents have been made. ~~as provided in section 43-253.~~

25 Sec. 227. Section 29-1816, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           29-1816 The accused shall be arraigned by reading to him  
3 or her the indictment or information, unless the reading is waived  
4 by the accused when the nature of the charge is made known to him  
5 or her. The accused shall then be asked whether he or she is guilty  
6 or not guilty of the offense charged. If the accused appears in  
7 person and by counsel and goes to trial before a jury regularly  
8 impaneled and sworn, he or she shall be deemed to have waived  
9 arraignment and a plea of not guilty shall be deemed to have been  
10 made.

11           At the time of the arraignment the court shall advise the  
12 defendant, if he or she was ~~less than eighteen~~ under twenty-one  
13 years of age at the time of the commitment of the alleged crime,  
14 that he or she may move the county or district court at any time  
15 not later than thirty days after arraignment, unless otherwise  
16 permitted by the court for good cause shown, to waive jurisdiction  
17 in such case to the juvenile court for further proceedings under  
18 the Nebraska Juvenile Code. The court shall schedule a hearing on  
19 such motion within fifteen days. The customary rules of evidence  
20 shall not be followed at such hearing. The county attorney shall  
21 present the evidence and reasons why such case should be retained,  
22 the defendant shall present the evidence and reasons why the case  
23 should be transferred, and both sides shall consider the criteria  
24 set forth in section ~~43-276.~~ 172 of this act. After considering  
25 all the evidence and reasons presented by both parties, ~~pursuant to~~

1 ~~section 43-276~~, the case shall be transferred unless a sound basis  
2 exists for retaining the case.

3 In deciding such motion the court shall consider, among  
4 other matters, the matters set forth in section ~~43-276~~ 172 of this  
5 act for consideration by the county attorney when determining the  
6 type of case to file.

7 The court shall set forth findings for the reason for  
8 its decision, which shall not be a final order for the purpose  
9 of enabling an appeal. If the court determines that the child  
10 should be transferred to the juvenile court, the complete file in  
11 the district court shall be transferred to the juvenile court and  
12 the indictment or information may be used in place of a petition  
13 therein. The court making a transfer shall order the minor to  
14 be taken forthwith to the juvenile court and designate where the  
15 minor shall be kept pending determination by the juvenile court.  
16 The juvenile court shall then proceed as provided in the Nebraska  
17 Juvenile Code.

18 Sec. 228. Section 29-1926, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 29-1926 (1) (a) Upon request of the prosecuting or defense  
21 attorney and upon a showing of compelling need, the court shall  
22 order the taking of a videotape deposition of a child victim of or  
23 child witness to any offense punishable as a felony. The deposition  
24 ordinarily shall be in lieu of courtroom or in camera testimony by  
25 the child. If the court orders a videotape deposition, the court

1 shall:

2 (i) Designate the time and place for taking the  
3 deposition. The deposition may be conducted in the courtroom, the  
4 judge's chambers, or any other location suitable for videotaping;

5 (ii) Assure adequate time for the defense attorney to  
6 complete discovery before taking the deposition; and

7 (iii) Preside over the taking of the videotape deposition  
8 in the same manner as if the child were called as a witness for the  
9 prosecution during the course of the trial.

10 (b) Unless otherwise required by the court, the  
11 deposition shall be conducted in the presence of the prosecuting  
12 attorney, the defense attorney, the defendant, and any other person  
13 deemed necessary by the court, including the parent or guardian of  
14 the child victim or child witness or a counselor or other person  
15 with whom the child is familiar. Such parent, guardian, counselor,  
16 or other person shall be allowed to sit with or near the child  
17 unless the court determines that such person would be disruptive  
18 to the child's testimony.

19 (c) At any time subsequent to the taking of the original  
20 videotape deposition and upon sufficient cause shown, the court  
21 shall order the taking of additional videotape depositions to be  
22 admitted at the time of the trial.

23 (d) If the child testifies at trial in person rather than  
24 by videotape deposition, the taking of the child's testimony may,  
25 upon request of the prosecuting attorney and upon a showing of

1 compelling need, be conducted in camera.

2 (e) Unless otherwise required by the court, the child  
3 shall testify in the presence of the prosecuting attorney, the  
4 defense attorney, the defendant, and any other person deemed  
5 necessary by the court, including the parent or guardian of the  
6 child victim or child witness or a counselor or other person with  
7 whom the child is familiar. Such parent, guardian, counselor, or  
8 other person shall be allowed to sit with or near the child unless  
9 the court determines that such person would be disruptive to the  
10 child's testimony. Unless waived by the defendant, all persons in  
11 the room shall be visible on camera except the camera operator.

12 (f) If deemed necessary to preserve the constitutionality  
13 of the child's testimony, the court may direct that during the  
14 testimony the child shall at all times be in a position to see the  
15 defendant live or on camera.

16 (g) For purposes of this section, child shall mean a  
17 person eleven years of age or younger at the time the motion to  
18 take the deposition is made or at the time of the taking of in  
19 camera testimony at trial.

20 (h) Nothing in this section shall restrict the court  
21 from conducting the pretrial deposition or in camera proceedings  
22 in any manner deemed likely to facilitate and preserve a child's  
23 testimony to the fullest extent possible, consistent with the  
24 right to confrontation guaranteed in the Sixth Amendment of the  
25 Constitution of the United States and Article I, section 11,

1 of the Nebraska Constitution. In deciding whether there is a  
2 compelling need that child testimony accommodation is required by  
3 pretrial videotape deposition, in camera live testimony, in camera  
4 videotape testimony, or any other accommodation, the court shall  
5 make particularized findings on the record of:

6 (i) The nature of the offense;

7 (ii) The significance of the child's testimony to the  
8 case;

9 (iii) The likelihood of obtaining the child's testimony  
10 without modification of trial procedure or with a different  
11 modification involving less substantial digression from trial  
12 procedure than the modification under consideration;

13 (iv) The child's age;

14 (v) The child's psychological maturity and understanding;

15 and

16 (vi) The nature, degree, and duration of potential injury  
17 to the child from testifying.

18 (i) The court may order an independent examination by a  
19 psychologist or psychiatrist if the defense attorney requests the  
20 opportunity to rebut the showing of compelling need produced by the  
21 prosecuting attorney. Such examination shall be conducted in the  
22 child's county of residence.

23 (j) After a finding of compelling need by the court,  
24 neither party may call the child witness to testify as a live  
25 witness at the trial before the jury unless that party demonstrates

1 that the compelling need no longer exists.

2 (k) Nothing in this section shall limit the right of  
3 access of the media or the public to open court.

4 (l) Nothing in this section shall preclude discovery by  
5 the defendant as set forth in section 29-1912.

6 (m) The Supreme Court may adopt and promulgate rules of  
7 procedure to administer this section, which rules shall not be in  
8 conflict with laws governing such matters.

9 (2)(a) No custodian of a videotape of a child victim  
10 or child witness alleging, explaining, denying, or describing an  
11 act of sexual assault pursuant to section 28-319, 28-319.01, or  
12 28-320.01 or child abuse pursuant to section 28-707 as part of  
13 an investigation or evaluation of the abuse or assault shall  
14 release or use a videotape or copies of a videotape or consent,  
15 by commission or omission, to the release or use of a videotape  
16 or copies of a videotape to or by any other party without a court  
17 order, notwithstanding the fact that the child victim or child  
18 witness has consented to the release or use of the videotape or  
19 that the release or use is authorized under law, except as provided  
20 in section ~~28-730~~. 283 of this act. Any custodian may release  
21 or consent to the release or use of a videotape or copies of a  
22 videotape to law enforcement agencies or agencies authorized to  
23 prosecute such abuse or assault cases on behalf of the state.

24 (b) The court order may govern the purposes for which  
25 the videotape may be used, the reproduction of the videotape, the

1 release of the videotape to other persons, the retention and return  
2 of copies of the videotape, and any other requirements reasonably  
3 necessary for the protection of the privacy and best interests of  
4 the child victim or child witness.

5 (c) Pursuant to section 29-1912, the defendant described  
6 in the videotape may petition the district court in the county  
7 where the alleged offense took place or where the custodian of the  
8 videotape resides for an order releasing to the defendant a copy of  
9 the videotape.

10 (d) Any person who releases or uses a videotape except as  
11 provided in this section shall be guilty of a Class I misdemeanor.

12 Sec. 229. Section 29-2246, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 29-2246 For purposes of the Nebraska Probation  
15 Administration Act and sections ~~43-2,123.01~~ and 83-1,102 to  
16 83-1,104, unless the context otherwise requires:

17 (1) Association means the Nebraska District Court Judges  
18 Association;

19 (2) Court means a district court, county court, or  
20 juvenile court as defined in section ~~43-245~~, 30 of this act;

21 (3) Office means the Office of Probation Administration;

22 (4) Probation means a sentence under which a person found  
23 guilty of a crime upon verdict or plea or adjudicated delinquent or  
24 in need of special supervision is released by a court subject to  
25 conditions imposed by the court and subject to supervision;

1 (5) Probationer means a person sentenced to probation;

2 (6) Probation officer means an employee of the system who  
3 supervises probationers and conducts presentence, predisposition,  
4 or other investigations as may be required by law or directed by a  
5 court in which he or she is serving or performs such other duties  
6 as authorized pursuant to section 29-2258, except unpaid volunteers  
7 from the community;

8 (7) Juvenile probation officer means any probation  
9 officer who supervises probationers of a separate juvenile court;

10 (8) Juvenile intake probation officer means an employee  
11 of the system who is called upon by a law enforcement officer in  
12 accordance with ~~section 43-250~~ the Nebraska Juvenile Code to make a  
13 decision regarding the furtherance of a juvenile's detention;

14 (9) Chief probation officer means the probation officer  
15 in charge of a probation district;

16 (10) System means the Nebraska Probation System;

17 (11) Administrator means the probation administrator; and

18 (12) Non-probation-based program or service means a  
19 program or service established within the district, county, or  
20 juvenile courts and provided to individuals not sentenced to  
21 probation who have been charged with or convicted of a crime  
22 for the purpose of diverting the individual from incarceration  
23 or to provide treatment for issues related to the individual's  
24 criminogenic needs. Non-probation-based programs or services  
25 include, but are not limited to, drug court programs and problem

1 solving court programs established pursuant to section 24-1302  
2 and the treatment of problems relating to substance abuse, mental  
3 health, sex offenses, or domestic violence.

4 Sec. 230. Section 29-2252.01, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 29-2252.01 On December 31 and June 30 of each fiscal  
7 year, the administrator shall provide a report to the budget  
8 division of the Department of Administrative Services and the  
9 Legislative Fiscal Analyst which shall include, but not be limited  
10 to:

11 (1) The total number of felony cases supervised by the  
12 office in the previous six months for both regular and intensive  
13 supervision probation;

14 (2) The total number of misdemeanor cases supervised  
15 by the office in the previous six months for both regular and  
16 intensive supervision probation;

17 (3) The felony caseload per officer for both regular and  
18 intensive supervision probation on the last day of the reporting  
19 period;

20 (4) The misdemeanor caseload per officer for both regular  
21 and intensive supervision probation on the last day of the  
22 reporting period;

23 (5) The total number of juvenile cases supervised by the  
24 office in the previous six months for both regular and intensive  
25 supervision probation;

1           (6) The total number of predisposition investigations  
2 completed by the office in the previous six months;

3           (7) The total number of presentence investigations  
4 completed by the office in the previous six months; and

5           (8) The total number of juvenile intake screening  
6 interviews conducted and detentions authorized by the office in the  
7 previous six months, using ~~the~~ a detention screening instrument,  
8 ~~described in section 43-260.01.~~

9           Sec. 231. Section 29-2258, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           29-2258 A district probation officer shall:

12           (1) Conduct juvenile intake interviews and investigations  
13 in accordance with ~~section 43-253~~ the Nebraska Juvenile Code  
14 utilizing a standardized juvenile detention screening instrument;  
15 ~~described in section 43-260.01.~~

16           (2) Make presentence and other investigations, as may be  
17 required by law or directed by a court in which he or she is  
18 serving;

19           (3) Supervise probationers in accordance with the rules  
20 and regulations of the office and the directions of the sentencing  
21 court;

22           (4) Advise the sentencing court, in accordance with  
23 the Nebraska Probation Administration Act and such rules and  
24 regulations of the office, of violations of the conditions of  
25 probation by individual probationers;

1           (5) Advise the sentencing court, in accordance with the  
2 rules and regulations of the office and the direction of the court,  
3 when the situation of a probationer may require a modification of  
4 the conditions of probation or when a probationer's adjustment is  
5 such as to warrant termination of probation;

6           (6) Provide each probationer with a statement of the  
7 period and conditions of his or her probation;

8           (7) Whenever necessary, exercise the power of arrest as  
9 provided in section 29-2266;

10          (8) Establish procedures for the direction and guidance  
11 of deputy probation officers under his or her jurisdiction and  
12 advise such officers in regard to the most effective performance of  
13 their duties;

14          (9) Supervise and evaluate deputy probation officers  
15 under his or her jurisdiction;

16          (10) Delegate such duties and responsibilities to a  
17 deputy probation officer as he ~~or she~~ the district probation  
18 officer deems appropriate;

19          (11) Make such reports as required by the administrator,  
20 the judges of the probation district in which he or she serves, or  
21 the Supreme Court;

22          (12) Keep accurate and complete accounts of all money or  
23 property collected or received from probationers and give receipts  
24 therefor;

25          (13) Cooperate fully with and render all reasonable

1 assistance to other probation officers;

2 (14) In counties with a population of less than  
3 twenty-five thousand people, participate in pretrial diversion  
4 programs established pursuant to sections 29-3601 to 29-3604  
5 and ~~juvenile pretrial diversion programs established pursuant~~  
6 ~~to sections 43-260.02 to 43-260.07~~ as requested by judges of  
7 the probation district in which he or she serves, except that  
8 participation in such programs shall not require appointment of  
9 additional personnel and shall be consistent with the probation  
10 officer's current caseload;

11 (15) Participate, at the direction of the probation  
12 administrator pursuant to an interlocal agreement which meets the  
13 requirements of section 29-2255, in non-probation-based programs  
14 and services;

15 (16) Perform such other duties not inconsistent with the  
16 Nebraska Probation Administration Act or the rules and regulations  
17 of the office as a court may from time to time direct; and

18 (17) Exercise all powers and perform all duties necessary  
19 and proper to carry out his or her responsibilities.

20 Sec. 232. Section 29-2260, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 29-2260 (1) Whenever a person is adjudicated to be as  
23 ~~described in subdivision (1), (2), (3)(b), or (4) of section~~  
24 43-247, a child in need of state protection, a child in need of  
25 state services, or a child in need of state rehabilitation, his or

1 her disposition shall be governed by the Nebraska Juvenile Code.

2 (2) Whenever a court considers sentence for an offender  
3 convicted of either a misdemeanor or a felony for which mandatory  
4 or mandatory minimum imprisonment is not specifically required, the  
5 court may withhold sentence of imprisonment unless, having regard  
6 to the nature and circumstances of the crime and the history,  
7 character, and condition of the offender, the court finds that  
8 imprisonment of the offender is necessary for protection of the  
9 public because:

10 (a) The risk is substantial that during the period of  
11 probation the offender will engage in additional criminal conduct;

12 (b) The offender is in need of correctional treatment  
13 that can be provided most effectively by commitment to a  
14 correctional facility; or

15 (c) A lesser sentence will depreciate the seriousness of  
16 the offender's crime or promote disrespect for law.

17 (3) The following grounds, while not controlling the  
18 discretion of the court, shall be accorded weight in favor of  
19 withholding sentence of imprisonment:

20 (a) The crime neither caused nor threatened serious harm;

21 (b) The offender did not contemplate that his or her  
22 crime would cause or threaten serious harm;

23 (c) The offender acted under strong provocation;

24 (d) Substantial grounds were present tending to excuse or  
25 justify the crime, though failing to establish a defense;

1           (e) The victim of the crime induced or facilitated  
2 commission of the crime;

3           (f) The offender has compensated or will compensate the  
4 victim of his or her crime for the damage or injury the victim  
5 sustained;

6           (g) The offender has no history of prior delinquency or  
7 criminal activity and has led a law-abiding life for a substantial  
8 period of time before the commission of the crime;

9           (h) The crime was the result of circumstances unlikely to  
10 recur;

11           (i) The character and attitudes of the offender indicate  
12 that he or she is unlikely to commit another crime;

13           (j) The offender is likely to respond affirmatively to  
14 probationary treatment; and

15           (k) Imprisonment of the offender would entail excessive  
16 hardship to his or her dependents.

17           (4) When an offender who has been convicted of a crime is  
18 not sentenced to imprisonment, the court may sentence him or her to  
19 probation.

20           Sec. 233. Section 29-2260.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           29-2260.01 It is the intent of the Legislature to  
23 ensure that a consistent and objective method of juvenile intake  
24 occur throughout the state for ~~juveniles held in temporary~~  
25 ~~eustody~~ children taken into emergency custody under the Nebraska

1 Juvenile Code by a law enforcement officer, ~~in accordance with~~  
2 ~~section 43-250,~~ to avoid either inappropriate or unnecessary  
3 detention of ~~juveniles~~ children which may result in inordinately  
4 high detention rates, overcrowding of local detention facilities,  
5 excessive detention costs for counties, and adverse consequences  
6 for the ~~juvenile, the juvenile's family,~~ child, the child's family,  
7 or the community. Juvenile intake services shall be administered  
8 by probation officers acting as juvenile probation intake officers  
9 and shall be available to all juvenile courts in the state,  
10 both county courts sitting as juvenile courts and separate  
11 juvenile courts. Such probation officers shall be appointed by the  
12 probation administrator and designated within respective probation  
13 districts based upon the need for such services as the probation  
14 administrator determines. In order to adequately provide juvenile  
15 intake services statewide and in accordance with the Juvenile  
16 Detention and Probation Services Implementation Team Interim Report  
17 and Recommendations filed with the Legislature December 15, 2000,  
18 it is the intent of the Legislature to appropriate funds to the  
19 system to provide seven additional probation officers to act in the  
20 capacity of juvenile probation intake officers.

21           Sec. 234. Section 29-3918, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           29-3918 Nothing in sections 29-3910 to 29-3918 shall  
24 prevent a court from appointing counsel other than the public  
25 defender to represent indigent defendants or other persons by law

1 entitled to legal representation, but appointments of counsel other  
2 than the public defender shall be limited to situations in which  
3 there are multiple defendants requiring separate representation  
4 or when other exigent circumstances are present which in the  
5 opinion of the court require appointment of other than the public  
6 defender. ~~In all such cases of appointments of other than the~~  
7 ~~public defender, the procedure shall be in accordance with sections~~  
8 ~~43-272 and 43-273 and the cost of such appointments shall be paid~~  
9 ~~by the county as provided in such sections.~~

10           Sec. 235. Section 29-4304, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           29-4304 (1) A victim does not waive the protections  
13 afforded by sections 29-4301 to 29-4304 by testifying in court  
14 about the offense, except that:

15           (a) If the victim partially discloses the contents of  
16 a confidential communication in the course of testifying, then  
17 either party may request the court to rule that justice requires  
18 the protections afforded by sections 29-4301 to 29-4304 be waived  
19 to the extent the protections apply to that portion of the  
20 confidential communication; and

21           (b) Any waiver shall apply only to the extent necessary  
22 to require any witness to respond to counsel's questions concerning  
23 a confidential communication that is relevant to the case.

24           (2) An advocate cannot waive the protections afforded a  
25 victim under sections 29-4301 to 29-4304. However, if a victim

1 brings suit against an advocate or the agency, business, or  
2 organization in which the advocate was employed or served as  
3 a volunteer at the time of the advocacy relationship, the  
4 advocate may testify or produce records regarding confidential  
5 communications with the victim and is not in violation of sections  
6 29-4301 to 29-4304.

7 (3) Sections 29-4301 to 29-4304 shall not relieve an  
8 advocate of any duty to report suspected adult abuse or neglect as  
9 required by section 28-372 or suspected child abuse or neglect as  
10 required by section ~~28-711~~ 64 of this act or any other legal duty  
11 to report a criminal or unlawful act.

12 (4) Sections 29-4301 to 29-4304 shall not be construed to  
13 limit any other testimonial privilege available to any person under  
14 the laws of this state.

15 Sec. 236. Section 30-2614, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 30-2614 A guardian's authority and responsibility  
18 terminates upon the death, resignation or removal of the guardian  
19 or upon the minor's death, adoption, marriage or attainment of  
20 majority, but termination does not affect his or her liability  
21 for prior acts, nor his or her obligation to account for funds  
22 and assets of ~~his~~ the ward. Resignation of a guardian does not  
23 terminate the guardianship until it has been approved by the  
24 court. A testamentary appointment under an informally probated  
25 will terminates if the will is later denied probate in a formal

1 proceeding. A permanent guardianship created pursuant to sections  
2 126 to 129 of this act is not terminated by removal or resignation  
3 of the guardian unless the court finds such termination to be in  
4 the child's best interests.

5           Sec. 237. Section 42-364, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           42-364 (1) In an action under Chapter 42 involving  
8 child support, child custody, parenting time, visitation, or other  
9 access, the parties and their counsel, if represented, shall  
10 develop a parenting plan as provided in the Parenting Act. If  
11 the parties and counsel do not develop a parenting plan, the  
12 complaint shall so indicate as provided in section 42-353 and  
13 before July 1, 2010, the case may be referred to mediation,  
14 specialized alternative dispute resolution, or other alternative  
15 dispute resolution process and on or after such date the case  
16 shall be referred to mediation or specialized alternative dispute  
17 resolution as provided in the Parenting Act. The decree in an  
18 action involving the custody of a minor child shall include the  
19 determination of legal custody and physical custody based upon the  
20 best interests of the child, as defined in the Parenting Act, and  
21 child support. Such determinations shall be made by incorporation  
22 into the decree of (a) a parenting plan developed by the parties,  
23 if approved by the court, or (b) a parenting plan developed by the  
24 court based upon evidence produced after a hearing in open court if  
25 no parenting plan is developed by the parties or the plan developed

1 by the parties is not approved by the court. The decree shall  
2 conform to the Parenting Act. The social security number of each  
3 parent and the minor child shall be furnished to the clerk of the  
4 district court but shall not be disclosed or considered a public  
5 record.

6 (2) In determining legal custody or physical custody,  
7 the court shall not give preference to either parent based on the  
8 sex of the parent and, except as provided in section 43-2933, no  
9 presumption shall exist that either parent is more fit or suitable  
10 than the other. Custody shall be determined on the basis of the  
11 best interests of the child, as defined in the Parenting Act.  
12 Unless parental rights are terminated, both parents shall continue  
13 to have the rights stated in section 42-381.

14 (3) Custody of a minor child may be placed with both  
15 parents on a joint legal custody or joint physical custody basis,  
16 or both, (a) when both parents agree to such an arrangement in the  
17 parenting plan and the court determines that such an arrangement is  
18 in the best interests of the child or (b) if the court specifically  
19 finds, after a hearing in open court, that joint physical custody  
20 or joint legal custody, or both, is in the best interests of the  
21 minor child regardless of any parental agreement or consent.

22 (4) In determining the amount of child support to be  
23 paid by a parent, the court shall consider the earning capacity  
24 of each parent and the guidelines provided by the Supreme Court  
25 pursuant to section 42-364.16 for the establishment of child

1 support obligations. Upon application, hearing, and presentation  
2 of evidence of an abusive disregard of the use of child support  
3 money paid by one party to the other, the court may require the  
4 party receiving such payment to file a verified report with the  
5 court, as often as the court requires, stating the manner in  
6 which such money is used. Child support paid to the party having  
7 custody of the minor child shall be the property of such party  
8 except as provided in section 43-512.07. The clerk of the district  
9 court shall maintain a record, separate from all other judgment  
10 dockets, of all decrees and orders in which the payment of child  
11 support or spousal support has been ordered, whether ordered by a  
12 district court, county court, separate juvenile court, or county  
13 court sitting as a juvenile court. Orders for child support in  
14 cases in which a party has applied for services under Title IV-D of  
15 the federal Social Security Act, as amended, shall be reviewed as  
16 provided in sections 43-512.12 to 43-512.18.

17 (5) Whenever termination of parental rights is placed in  
18 issue:

19 (a) The court shall transfer jurisdiction to a juvenile  
20 court established pursuant to the Nebraska Juvenile Code unless  
21 a showing is made that the county court or district court  
22 is a more appropriate forum. In making such determination, the  
23 court may consider such factors as cost to the parties, undue  
24 delay, congestion of dockets, and relative resources available for  
25 investigative and supervisory assistance. A determination that the

1 county court or district court is a more appropriate forum shall  
2 not be a final order for the purpose of enabling an appeal. If  
3 no such transfer is made, the court shall appoint an attorney as  
4 guardian ad litem to protect the interests of any minor child.  
5 The court may terminate the parental rights of one or both parents  
6 after notice and hearing when the court finds such action to be in  
7 the best interests of the minor child, as defined in the Parenting  
8 Act, and it appears by the evidence that one or more of the grounds  
9 for termination of parental rights stated in section ~~43-292~~ 132 of  
10 this act exist; and

11 (b) The court shall inform a parent who does not have  
12 legal counsel of the parent's right to retain counsel and of  
13 the parent's right to retain legal counsel at county expense if  
14 such parent is unable to afford legal counsel. If such parent  
15 is unable to afford legal counsel and requests the court to  
16 appoint legal counsel, the court shall immediately appoint an  
17 attorney to represent the parent in the termination proceedings.  
18 The court shall order the county to pay the attorney's fees and  
19 all reasonable expenses incurred by the attorney in protecting the  
20 rights of the parent. At such hearing, the guardian ad litem shall  
21 take all action necessary to protect the interests of the minor  
22 child. The court shall fix the fees and expenses of the guardian ad  
23 litem and tax the same as costs but may order the county to pay on  
24 finding the responsible party indigent and unable to pay.

25 (6) Modification proceedings relating to support,

1 custody, parenting time, visitation, other access, or removal of  
2 children from the jurisdiction of the court shall be commenced  
3 by filing a complaint to modify. Modification of a parenting  
4 plan is governed by the Parenting Act. Proceedings to modify a  
5 parenting plan shall be commenced by filing a complaint to modify.  
6 Such actions may be referred to mediation, specialized alternative  
7 dispute resolution, or other alternative dispute resolution process  
8 before July 1, 2010, and on and after such date shall be referred  
9 to mediation or specialized alternative dispute resolution as  
10 provided in the Parenting Act. Service of process and other  
11 procedure shall comply with the requirements for a dissolution  
12 action.

13 (7) In any proceeding under this section relating to  
14 custody of a child of school age, certified copies of school  
15 records relating to attendance and academic progress of such child  
16 are admissible in evidence.

17 Sec. 238. Section 42-371, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 42-371 Under the Uniform Interstate Family Support Act  
20 and sections 42-347 to 42-381, ~~43-290~~, 43-512 to 43-512.10, and  
21 43-1401 to 43-1418 and sections 53 to 61 of this act:

22 (1) All judgments and orders for payment of money shall  
23 be liens, as in other actions, upon real property and any personal  
24 property registered with any county office and may be enforced or  
25 collected by execution and the means authorized for collection of

1 money judgments;

2 (2) (a) The judgment creditor may execute a partial or  
3 total release of the judgment or a document subordinating the lien  
4 of the judgment to any other lien, generally or on specific real or  
5 personal property.

6 (b) Release of a judgment for child support or spousal  
7 support or subordination of a lien of a judgment for child support  
8 or spousal support may, if all such payments are current, be  
9 released or subordinated by a release or subordination document  
10 executed by the judgment creditor, and such document shall be  
11 sufficient to remove or subordinate the lien. A properly executed,  
12 notarized release or subordination document explicitly reciting  
13 that all child support payments or spousal support payments are  
14 current is prima facie evidence that such payments are in fact  
15 current.

16 (c) Release of a judgment for child support or spousal  
17 support or subordination of a lien of a judgment for child support  
18 or spousal support shall be approved by the court which rendered  
19 the judgment if all such payments are not current. The judgment  
20 debtor may file a motion in the court which rendered the original  
21 judgment for an order releasing or subordinating the lien as to  
22 specific real or personal property. The court shall grant such  
23 order upon a showing by the judgment debtor that sufficient real or  
24 personal property or property interests will remain subject to the  
25 lien or will maintain priority over other liens sufficient to cover

1 all support due and which may become due;

2 (3) Whenever a judgment creditor refuses to execute a  
3 release of the judgment or subordination of a lien as provided  
4 in this section, the person desiring such release or subordination  
5 may file an application for the relief desired. A copy of the  
6 application and a notice of hearing shall be served on the judgment  
7 creditor either personally or by registered or certified mail no  
8 later than ten days before the date of hearing. If the court finds  
9 that the release or subordination is not requested for the purpose  
10 of avoiding payment and that the release or subordination will not  
11 unduly reduce the security, the court may issue an order releasing  
12 real or personal property from the judgment lien or issue an order  
13 subordinating the judgment lien. As a condition for such release or  
14 subordination, the court may require the posting of a bond with the  
15 clerk in an amount fixed by the court, guaranteeing payment of the  
16 judgment. For purposes of this section, a current certified copy of  
17 support order payment history from the Title IV-D Division of the  
18 Department of Health and Human Services setting forth evidence that  
19 all support payments are current is prima facie evidence that such  
20 payments are in fact current and is valid for thirty days after the  
21 date of certification;

22 (4) Full faith and credit shall be accorded to a lien  
23 arising by operation of law against real and personal property for  
24 amounts overdue relating to a support order owed by an obligor who  
25 resides or owns property in this state when another state agency,

1 party, or other entity seeking to enforce such lien complies with  
2 the procedural rules relating to the filing of the lien in this  
3 state. The state agency, party, or other entity seeking to enforce  
4 such lien shall send a certified copy of the support order with  
5 all modifications, the notice of lien prescribed by 42 U.S.C.  
6 652(a)(11) and 42 U.S.C. 654(9)(E), and the appropriate fee to  
7 the clerk of the district court in the jurisdiction within this  
8 state in which the lien is sought. Upon receiving the appropriate  
9 documents and fee, the clerk of the district court shall accept the  
10 documents filed and such acceptance shall constitute entry of the  
11 foreign support order for purposes of this section only. Entry of a  
12 lien arising in another state pursuant to this section shall result  
13 in such lien being afforded the same treatment as liens arising  
14 in this state. The filing process required by this section shall  
15 not be construed as requiring an application, complaint, answer,  
16 and hearing as might be required for the filing or registration of  
17 foreign judgments under the Nebraska Uniform Enforcement of Foreign  
18 Judgments Act or the Uniform Interstate Family Support Act;

19 (5) Support order judgments shall cease to be liens on  
20 real or registered personal property ten years from the date (a)  
21 the youngest child becomes of age or dies or (b) the most recent  
22 execution was issued to collect the judgment, whichever is later,  
23 and such lien shall not be reinstated;

24 (6) Alimony and property settlement award judgments, if  
25 not covered by subdivision (5) of this section, shall cease to be

1 a lien on real or registered personal property ten years from the  
2 date (a) the judgment was entered, (b) the most recent payment  
3 was made, or (c) the most recent execution was issued to collect  
4 the judgment, whichever is latest, and such lien shall not be  
5 reinstated;

6 (7) The court may in any case, upon application or its  
7 own motion, after notice and hearing, order a person required to  
8 make payments to post sufficient security, bond, or other guarantee  
9 with the clerk to insure payment of both current and any delinquent  
10 amounts. Upon failure to comply with the order, the court may  
11 also appoint a receiver to take charge of the debtor's property  
12 to insure payment. Any bond, security, or other guarantee paid in  
13 cash may, when the court deems it appropriate, be applied either to  
14 current payments or to reduce any accumulated arrearage;

15 (8) (a) The lien of a mortgage or deed of trust which  
16 secures a loan, the proceeds of which are used to purchase  
17 real property, and (b) any lien given priority pursuant to a  
18 subordination document under this section shall attach prior to  
19 any lien authorized by this section. Any mortgage or deed of trust  
20 which secures the refinancing, renewal, or extension of a real  
21 property purchase money mortgage or deed of trust shall have the  
22 same lien priority with respect to any lien authorized by this  
23 section as the original real property purchase money mortgage or  
24 deed of trust to the extent that the amount of the loan refinanced,  
25 renewed, or extended does not exceed the amount used to pay the

1 principal and interest on the existing real property purchase money  
2 mortgage or deed of trust, plus the costs of the refinancing,  
3 renewal, or extension; and

4 (9) Any lien authorized by this section against personal  
5 property registered with any county consisting of a motor vehicle  
6 or mobile home shall attach upon notation of the lien against the  
7 motor vehicle or mobile home certificate of title and shall have  
8 its priority established pursuant to the terms of section 60-164 or  
9 a subordination document executed under this section.

10 Sec. 239. Section 43-101, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 43-101 (1) Except as otherwise provided in the Nebraska  
13 Indian Child Welfare Act, any minor child may be adopted by any  
14 adult person or persons and any adult child may be adopted by the  
15 spouse of such child's parent in the cases and subject to sections  
16 43-101 to 43-115, except that no person having a husband or wife  
17 may adopt a minor child unless the husband or wife joins in the  
18 petition therefor. If the husband or wife so joins in the petition  
19 therefor, the adoption shall be by them jointly, except that an  
20 adult husband or wife may adopt a child of the other spouse whether  
21 born in or out of wedlock.

22 (2) Any adult child may be adopted by any person or  
23 persons subject to sections 43-101 to 43-115, except that no person  
24 having a husband or wife may adopt an adult child unless the  
25 husband or wife joins in the petition therefor. If the husband

1 or wife so joins the petition therefor, the adoption shall be  
2 by them jointly. The adoption of an adult child by another adult  
3 or adults who are not the stepparent of the adult child may be  
4 permitted if the adult child has had a parent-child relationship  
5 with the prospective parent or parents for a period of at least  
6 six months next preceding the adult child's age of majority and (a)  
7 the adult child has no living parents, (b) the adult child's parent  
8 or parents had been deprived of parental rights to such child by  
9 the order of any court of competent jurisdiction, (c) the parent or  
10 parents, if living, have relinquished the adult child for adoption  
11 by a written instrument, (d) the parent or parents had abandoned  
12 the child for at least six months next preceding the adult child's  
13 age of majority, or (e) the parent or parents are incapable of  
14 consenting. The substitute consent provisions of section 43-105 and  
15 relinquishment requirements of section 245 of this act do not apply  
16 to adoptions under this subsection.

17           Sec. 240. Section 43-104, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-104 (1) Except as otherwise provided in this section  
20 and in the Nebraska Indian Child Welfare Act, no adoption shall  
21 be decreed unless written consents thereto are filed in the county  
22 court of the county in which the person or persons desiring to  
23 adopt reside or in the county court in which the separate juvenile  
24 court having jurisdiction over the custody of the child is located  
25 and the written consents are executed by (a) the minor child, if

1 over fourteen years of age, or the adult child, (b) any district  
2 court, county court, or separate juvenile court in the State of  
3 Nebraska having jurisdiction of the custody of a minor child by  
4 virtue of proceedings had in any district court, county court, or  
5 separate juvenile court in the State of Nebraska or by virtue of  
6 the Uniform Child Custody Jurisdiction and Enforcement Act, and  
7 (c) both parents of a child born in lawful wedlock if living, the  
8 surviving parent of a child born in lawful wedlock, the mother of a  
9 child born out of wedlock, or both the mother and father of a child  
10 born out of wedlock as determined pursuant to sections 43-104.08  
11 to 43-104.25. On and after April 20, 2002, a written consent or  
12 relinquishment for adoption under this section shall not be valid  
13 unless signed at least forty-eight hours after the birth of the  
14 child.

15 (2) Consent shall not be required of any parent who (a)  
16 has relinquished the child for adoption by a written instrument  
17 pursuant to section 245 of this act, (b) has abandoned the child  
18 for at least six months next preceding the filing of the adoption  
19 petition, (c) has been deprived of his or her parental rights to  
20 such child by the order of any court of competent jurisdiction, or  
21 (d) is incapable of consenting.

22 (3) Consent shall not be required of a putative father  
23 who has failed to timely file (a) a Notice of Objection to  
24 Adoption and Intent to Obtain Custody pursuant to section 43-104.02  
25 and, with respect to the absence of such filing, a certificate

1 has been filed pursuant to section 43-104.04 or (b) a petition  
2 pursuant to section 43-104.05 for the adjudication of such notice  
3 and a determination of whether his consent to the adoption is  
4 required and the mother of the child has timely executed a  
5 valid relinquishment and consent to the adoption pursuant to such  
6 section.

7 (4) Consent shall not be required of an adjudicated or  
8 putative father who is not required to consent to the adoption  
9 pursuant to section 43-104.22.

10 Sec. 241. Section 43-104.08, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 43-104.08 Whenever a child is claimed to be born out of  
13 wedlock and the biological mother contacts an adoption agency or  
14 attorney to relinquish her rights to the child, or the biological  
15 mother joins in a petition for adoption to be filed by her husband,  
16 the agency or attorney contacted shall attempt to establish the  
17 identity of the biological father and further attempt to inform  
18 the biological father of his right to execute a relinquishment and  
19 consent to adoption, or a denial of paternity and waiver of rights.  
20 The consent to adoption or denial of paternity and waiver of  
21 rights shall be , in the form mandated by section 43-106, pursuant  
22 to sections 43-104.08 to 43-104.25. The relinquishment shall be  
23 executed as provided in section 245 of this act.

24 Sec. 242. Section 43-104.11, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           43-104.11 If the biological mother's affidavit, required  
2 by section 43-104.09, identifies only one possible biological  
3 father of the child and states that there are no other possible  
4 biological fathers of the child, and if the named father executes  
5 a valid relinquishment and consent to adoption of the child in  
6 the form mandated by section 43-106 or executes a denial of  
7 paternity and waiver of rights in the form mandated by section  
8 43-106, the court may enter a decree of adoption pursuant to  
9 section 43-109 without regard to sections 43-104.12 to 43-104.16.  
10 A named biological father's ~~relinquishment~~ and consent or a  
11 named biological father's waiver of rights is irrevocable upon  
12 signing and is not voidable for any period after signing. Such  
13 ~~relinquishment~~ and consent or such waiver of rights may only be  
14 challenged on the basis of fraud or duress for up to six months  
15 after signing. A named biological father's relinquishment may be  
16 revoked as provided in section 245 of this act.

17           Sec. 243. Section 43-106.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           43-106.01 When a child ~~shall have~~ has been relinquished  
20 by written instrument, as provided by ~~sections 43-104 and 43-106,~~  
21 in section 245 of this act, to the Department of Health and Human  
22 Services or to a licensed child placement agency and the agency  
23 has, in writing, accepted full responsibility for the child, the  
24 person so relinquishing shall be relieved of all parental duties  
25 toward and all responsibilities for such child and have no rights

1 over such child. Nothing contained in this section shall impair the  
2 right of such child to inherit.

3 Sec. 244. Section 43-107, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-107 (1)(a) For adoption placements occurring or in  
6 effect prior to January 1, 1994, upon the filing of a petition  
7 for adoption, the county judge shall, except in the adoption of  
8 children by stepparents when the requirement of an investigation is  
9 discretionary, request the Department of Health and Human Services  
10 or any child placement agency licensed by the department to examine  
11 the allegations set forth in the petition and to ascertain any  
12 other facts relating to such minor child and the person or persons  
13 petitioning to adopt such child as may be relevant to the propriety  
14 of such adoption, except that the county judge shall not be  
15 required to request such an examination if the judge determines  
16 that information compiled in a previous examination or study is  
17 sufficiently current and comprehensive. Upon the request being  
18 made, the department or other licensed agency shall conduct an  
19 investigation and report its findings to the county judge in  
20 writing at least one week prior to the date set for hearing.

21 (b)(i) For adoption placements occurring on or after  
22 January 1, 1994, a preplacement adoptive home study shall be filed  
23 with the court prior to the hearing required in section 43-103,  
24 which study is completed by the Department of Health and Human  
25 Services or a licensed child placement agency within one year

1 before the date on which the adoptee is placed with the petitioner  
2 or petitioners and indicates that the placement of a child for the  
3 purpose of adoption would be safe and appropriate.

4 (ii) An adoptive home study shall not be required when  
5 the petitioner is a stepparent of the adoptee unless required by  
6 the court, except that for petitions filed on or after January 1,  
7 1994, the judge shall order the petitioner or his or her attorney  
8 to request the Nebraska State Patrol to file a national criminal  
9 history record information check and to request the department to  
10 conduct and file a check of the ~~central register~~ Child Protection  
11 Registry created in section ~~28-718~~ 270 of this act for any history  
12 of the petitioner of behavior injurious to or which may endanger  
13 the health or morals of a child. An adoption decree shall not  
14 be issued until such records are on file with the court. The  
15 petitioner shall pay the cost of the national criminal history  
16 record information check and the check of the ~~central register.~~  
17 Child Protection Registry.

18 (iii) The placement of a child for foster care made by or  
19 facilitated by the department or a licensed child placement agency  
20 in the home of a person who later petitions the court to adopt  
21 the child shall be exempt from the requirements of a preplacement  
22 adoptive home study. The petitioner or petitioners who meet such  
23 criteria shall have a postplacement adoptive home study completed  
24 by the department or a licensed child placement agency and filed  
25 with the court at least one week prior to the hearing for adoption.

1           (iv) A voluntary placement for purposes other than  
2 adoption made by a parent or guardian of a child without assistance  
3 from an attorney, physician, or other individual or agency which  
4 later results in a petition for the adoption of the child shall be  
5 exempt from the requirements of a preplacement adoptive home study.  
6 The petitioner or petitioners who meet such criteria shall have a  
7 postplacement adoptive home study completed by the department or a  
8 licensed child placement agency and filed with the court at least  
9 one week prior to the hearing for adoption.

10           (v) The adoption of an adult child as provided  
11 in subsection (2) of section 43-101 shall be exempt from  
12 the requirements of an adoptive home study unless the court  
13 specifically orders otherwise. The court may order an adoptive home  
14 study, a background investigation, or both if the court determines  
15 that such would be in the best interests of the adoptive party or  
16 the person to be adopted.

17           (vi) Any adoptive home study required by this section  
18 shall be conducted by the department or a licensed child placement  
19 agency at the expense of the petitioner or petitioners unless such  
20 expenses are waived by the department or licensed child placement  
21 agency. The department or licensed agency shall determine the fee  
22 or rate for the adoptive home study.

23           (vii) The preplacement or postplacement adoptive home  
24 study shall be performed as prescribed in rules and regulations  
25 of the department and shall include at a minimum an examination

1 into the facts relating to the petitioner or petitioners as may  
2 be relevant to the propriety of such adoption. Such rules and  
3 regulations shall require an adoptive home study to include a  
4 national criminal history record information check and a check of  
5 the ~~central register created in section 28-718~~ Child Protection  
6 Registry for any history of the petitioner or petitioners of  
7 behavior injurious to or which may endanger the health or morals of  
8 a child.

9 (2) Upon the filing of a petition for adoption, the judge  
10 shall require that a complete medical history be provided on the  
11 child, except that in the adoption of a child by a stepparent  
12 the provision of a medical history shall be discretionary. A  
13 medical history shall be provided, if available, on the biological  
14 mother and father and their biological families, including, but  
15 not limited to, siblings, parents, grandparents, aunts, and uncles,  
16 unless the child is foreign born or was abandoned. The medical  
17 history or histories shall be reported on a form provided by the  
18 department and filed along with the report of adoption as provided  
19 by section 71-626. If the medical history or histories do not  
20 accompany the report of adoption, the department shall inform the  
21 court and the State Court Administrator. The medical history or  
22 histories shall be made part of the court record. After the entry  
23 of a decree of adoption, the court shall retain a copy and forward  
24 the original medical history or histories to the department. This  
25 subsection shall only apply when the relinquishment or consent for

1 an adoption is given on or after September 1, 1988.

2           Sec. 245. (1)(a) Except as otherwise provided in this  
3 subsection, a voluntary relinquishment of parental rights shall be  
4 by a written instrument executed in open court. A record of the  
5 testimony related to the execution of the relinquishment shall be  
6 made.

7           (b) If a person from whom a relinquishment is required  
8 is on active duty with the armed services of the United States or  
9 is in prison, the relinquishment may be executed and acknowledged  
10 before an individual authorized by law to administer oaths.

11           (c) If the relinquishment is given by an authorized  
12 representative of a licensed child placement agency that has  
13 jurisdiction of the child to be adopted, the relinquishment may be  
14 executed and acknowledged before an individual authorized by law to  
15 administer oaths.

16           (d) If the relinquishment is executed in another state or  
17 country, the court having jurisdiction over the adoption proceeding  
18 in this state shall determine whether the relinquishment was  
19 executed in accordance with the laws of that state or country or  
20 the laws of this state and shall not proceed unless it finds that  
21 the relinquishment was so executed.

22           (2) A relinquishment by a parent or guardian shall  
23 be accompanied by a verified statement signed by the parent or  
24 guardian that contains all of the following:

25           (a) That the parent or guardian has received counseling

1 related to the adoption of the child or waives the counseling with  
2 the signing of the verified statement;

3 (b) That the parent or guardian has not received or been  
4 promised any money or anything of value for the relinquishment  
5 of the child, except for lawful payments that are itemized on a  
6 schedule filed with the relinquishment;

7 (c) That the validity and finality of the relinquishment  
8 is not affected by any collateral or separate agreement between  
9 the parent or guardian and the department or between the parent or  
10 guardian and the prospective adoptive parent;

11 (d) That the parent or guardian understands that it  
12 serves the welfare of the child for the parent to keep the  
13 department or the licensed child placement agency informed of any  
14 health problems that the parent develops that could affect the  
15 child; and

16 (e) That the parent or guardian understands that it  
17 serves the welfare of the child for the parent or guardian to keep  
18 his or her address current with the department or the licensed  
19 child placement agency in order to permit a response to any inquiry  
20 concerning medical or social history from an adoptive parent of a  
21 minor adoptee or from an adoptee who is eighteen years of age or  
22 older.

23 (3) A relinquishment executed under subdivision (1) (a) of  
24 this section by a parent or a guardian of the child shall not be  
25 executed until after an investigation the court considers proper

1 and until after the judge has fully explained to the parent or  
2 guardian the legal rights of the parent or guardian, the fact that  
3 the parent or guardian by virtue of the relinquishment voluntarily  
4 relinquishes permanently his or her rights to the child, and, if  
5 the child is over five years of age, that the court has determined  
6 that the child is best served by the relinquishment.

7 (4) Upon finding that the requirements of subsections (1)  
8 through (3) of this section have been met, the court immediately  
9 shall issue an order terminating the parental rights of that parent  
10 or guardian to that child. If the rights of both parents, the  
11 surviving parent, or the guardian have been terminated, the court  
12 shall issue an order committing the child to the department or  
13 the licensed child placement agency to which the relinquishment was  
14 given.

15 (5) Entry of an order terminating the rights of both  
16 parents under subsection (4) of this section terminates the  
17 jurisdiction of the district court over the child in any divorce or  
18 separate custody action.

19 (6) Upon petition of the same person or persons who  
20 executed the relinquishment and of the department or licensed  
21 child placement agency to which the child was relinquished,  
22 the court with which the relinquishment was filed may grant a  
23 hearing to consider whether the relinquishment should be revoked.  
24 A relinquishment shall not be revoked if the child has been placed  
25 for adoption. A record of testimony related to a petition to revoke

1 a relinquishment shall be made.

2           Sec. 246. Section 43-2,113, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-2,113 (1) In counties where a separate juvenile court  
5 is established, the county board of the county shall provide  
6 suitable rooms and offices for the accommodation of the judge  
7 of the separate juvenile court and the officers and employees  
8 appointed by such judge or by the probation administrator pursuant  
9 to subsection (4) of section 29-2253. Such separate juvenile court  
10 and the judge, officers, and employees of such court shall have  
11 the same and exclusive jurisdiction, powers, and duties that are  
12 prescribed in the Nebraska Juvenile Code, concurrent jurisdiction  
13 under section 83-223, and such other jurisdiction, powers, and  
14 duties as specifically provided by law.

15           (2) A juvenile court created in a separate juvenile court  
16 judicial district or a county court sitting as a juvenile court in  
17 all other counties shall have and exercise jurisdiction within such  
18 juvenile court judicial district or county court judicial district  
19 with the county court and district court in all matters arising  
20 under Chapter 42, article 3, when the care, support, custody, or  
21 control of minor children under the age of ~~eighteen~~ twenty-one  
22 years is involved. Such cases shall be filed in the county court  
23 and district court and may, with the consent of the juvenile judge,  
24 be transferred to the docket of the separate juvenile court or  
25 county court.

1           (3) All orders issued by a separate juvenile court or a  
2 county court which provide for child support or spousal support as  
3 defined in section 42-347 shall be governed by sections 42-347 to  
4 42-381 ~~and 43-290~~ and sections 53 to 61 of this act relating to  
5 such support. Certified copies of such orders shall be filed by  
6 the clerk of the separate juvenile or county court with the clerk  
7 of the district court who shall maintain a record as provided in  
8 subsection (4) of section 42-364. There shall be no fee charged for  
9 the filing of such certified copies.

10           Sec. 247. Section 43-2,108, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~43-2,108~~ (1) The juvenile court judge shall keep a minute  
13 book in which he or she shall enter minutes of all proceedings of  
14 the court in each case, including appearances, findings, orders,  
15 decrees, and judgments, and any evidence which he or she feels it  
16 is necessary and proper to record. Juvenile court legal records  
17 shall be deposited in files and shall include the petition,  
18 summons, notice, certificates or receipts of mailing, minutes of  
19 the court, findings, orders, decrees, judgments, and motions.

20           (2) Except as provided in subsection (3) of this section,  
21 the medical, psychological, psychiatric, and social welfare reports  
22 and the records of juvenile probation officers as they relate to  
23 individual proceedings in the juvenile court shall not be open  
24 to inspection, without order of the court. Such records shall be  
25 made available to a district court of this state or the District

1 Court of the United States on the order of a judge thereof for  
2 the confidential use of such judge or his or her probation officer  
3 as to matters pending before such court but shall not be made  
4 available to parties or their counsel; and such district court  
5 records shall be made available to a county court or separate  
6 juvenile court upon request of the county judge or separate  
7 juvenile judge for the confidential use of such judge and his or  
8 her probation officer as to matters pending before such court, but  
9 shall not be made available by such judge to the parties or their  
10 counsel.

11 (3) As used in this subsection, confidential record  
12 information shall mean all docket records, other than the  
13 pleadings, orders, decrees, and judgments; case files and records;  
14 reports and records of probation officers; and information supplied  
15 to the court of jurisdiction in such cases by any individual or any  
16 public or private institution, agency, facility, or clinic, which  
17 is compiled by, produced by, and in the possession of any court.

18 In all cases ~~under subdivision (3)(a) of section 43-247,~~ involving  
19 a child in need of state protection, access to all confidential  
20 record information in such cases shall be granted only as follows:

21 (a) The court of jurisdiction may, subject to applicable federal  
22 and state regulations, disseminate such confidential record  
23 information to any individual, or public or private agency,  
24 institution, facility, or clinic which is providing services  
25 directly to the juvenile and such juvenile's parents or guardian

1 ~~and~~ child and such child's responsible adults and other members of  
2 his or her immediate family who are the subject of such record  
3 information; (b) the court of jurisdiction may disseminate such  
4 confidential record information, with the consent of persons who  
5 are subjects of such information, or by order of such court after  
6 showing of good cause, to any law enforcement agency upon such  
7 agency's specific request for such agency's exclusive use in the  
8 investigation of any protective service case or investigation of  
9 allegations ~~under subdivision (3)(a) of section 43-247,~~ regarding  
10 the ~~juvenile or such juvenile's~~ child or such child's immediate  
11 family, who are the subject of such investigation; and (c) the  
12 court of jurisdiction may disseminate such confidential record  
13 information to any court, which has jurisdiction of the ~~juvenile~~  
14 child who is the subject of such information upon such court's  
15 request.

16 (4) Nothing in subsection (3) of this section shall be  
17 construed to restrict the dissemination of confidential record  
18 information between any individual or public or private agency,  
19 institute, facility, or clinic, except any such confidential record  
20 information disseminated by the court of jurisdiction pursuant to  
21 this section shall be for the exclusive and private use of those to  
22 whom it was released and shall not be disseminated further without  
23 order of such court.

24 ~~(5)(a) Any~~ (5) Confidentiality of records concerning a  
25 juvenile court petition regarding a child in need of state mental

1 health services shall be governed by sections 202 to 216 of this  
2 act. filed pursuant to subdivision (3)(c) of section 43-247 shall  
3 remain confidential except as may be provided otherwise by law.  
4 Such records shall be accessible to (i) the juvenile except as  
5 provided in subdivision (b) of this subsection, (ii) the juvenile's  
6 counsel, (iii) the juvenile's parent or guardian, and (iv) persons  
7 authorized by an order of a judge or court.

8 ~~(b) Upon application by the county attorney or by the~~  
9 ~~director of the facility where the juvenile is placed and upon~~  
10 ~~a showing of good cause therefor, a judge of the juvenile court~~  
11 ~~having jurisdiction over the juvenile or of the county where the~~  
12 ~~facility is located may order that the records shall not be made~~  
13 ~~available to the juvenile if, in the judgment of the court, the~~  
14 ~~availability of such records to the juvenile will adversely affect~~  
15 ~~the juvenile's mental state and the treatment thereof.~~

16 Sec. 248. Section 43-2,109, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~43-2,109~~ In each county the judge presiding over the  
19 juvenile court may appoint a board of four reputable residents,  
20 who shall serve without compensation, to constitute a board of  
21 visitation whose duty it shall be to visit at least once a year  
22 all institutions, societies, and associations within the county  
23 receiving juveniles children under the Nebraska Juvenile Code.  
24 Visits shall be made by not less than two of the members of  
25 the board, who shall go together or make a joint report. The

1 board of visitors shall report to the court, from time to time,  
2 the condition of ~~juveniles~~ children received by or in the charge  
3 of such associations and institutions and shall make an annual  
4 report to the Department of Health and Human Services in such  
5 form as the department may prescribe. The county board may, in its  
6 discretion, make appropriations for the payment of the actual and  
7 necessary expenses incurred by the visitors in the discharge of  
8 their official duties.

9           Sec. 249. Section 43-2,110, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~43-2,110~~ The several county boards of counties of  
12 Nebraska shall have the power and authority to appropriate the  
13 funds necessary to establish and maintain detention homes in  
14 connection with the juvenile courts of this state.

15           Sec. 250. Section 43-2,125, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           43-2,125 (1) Whenever any judge of a separate juvenile  
18 court is disabled or disqualified to act in any cause before him or  
19 her or is temporarily absent from the county or whenever it would  
20 be beneficial to the administration of justice, a judge of the  
21 district court or county court may agree to serve as judge of the  
22 separate juvenile court during such period or the Chief Justice of  
23 the Supreme Court may designate and appoint a judge of the district  
24 court, a judge of another separate juvenile court, or a judge of  
25 the county court to serve as judge of the separate juvenile court

1 during such period. The Chief Justice may also appoint a judge of a  
2 separate juvenile court to hear juvenile matters in a county court.

3 (2) The State Court Administrator shall report to the  
4 Legislature each year beginning January 1, 2011, regarding the  
5 progress of the juvenile court system.

6 Sec. 251. Section 43-413, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-413 (1) A court may ~~not~~ ~~pursuant to section 43-281,~~ place  
9 a juvenile with the Office of Juvenile Services or the Department  
10 of Health and Human Services for an evaluation to aid the court in  
11 the disposition.

12 (2) A juvenile convicted as an adult shall be placed with  
13 the Office of Juvenile Services for evaluation prior to sentencing  
14 as provided by subsection (3) of section 29-2204.

15 (3) All juveniles shall be evaluated prior to commitment  
16 to the Office of Juvenile Services. The court shall not commit  
17 such juvenile to the temporary custody of the Office of Juvenile  
18 Services prior to disposition. The office may place a juvenile in  
19 residential or nonresidential community-based evaluation services  
20 for purposes of evaluation to assist the court in determining the  
21 initial level of treatment for the juvenile.

22 (4) During any period of detention or evaluation prior to  
23 disposition:

24 (a) Except as provided in subdivision (4)(b) of this  
25 section, the county in which the case is pending is responsible

1 for all detention costs incurred before and after an evaluation  
2 period prior to disposition, the cost of delivering the juvenile  
3 to the facility or institution for an evaluation, and the cost of  
4 returning the juvenile to the court for disposition; and

5 (b) The state is responsible for (i) the costs incurred  
6 during an evaluation unless otherwise ordered by the court pursuant  
7 to ~~section 43-290~~ sections 53 to 61 of this act and (ii) the  
8 preevaluation detention costs for any days over the first ten days  
9 from the date the evaluation is ordered by the court.

10 (5) The Office of Juvenile Services and the Department of  
11 Health and Human Services are not responsible for predisposition  
12 costs except as provided in subdivision (4)(b) of this section.

13 Sec. 252. Section 43-512, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 43-512 (1) Any dependent child as defined in section  
16 43-504 or any relative or eligible caretaker of such a dependent  
17 child may file with the Department of Health and Human Services  
18 a written application for financial assistance for such child on  
19 forms furnished by the department.

20 (2) The department, through its agents and employees,  
21 shall make such investigation pursuant to the application as it  
22 deems necessary or as may be required by the county attorney  
23 or authorized attorney. If the investigation or the application  
24 for financial assistance discloses that such child has a parent  
25 or stepparent who is able to contribute to the support of such

1 child and has failed to do so, a copy of the finding of such  
2 investigation and a copy of the application shall immediately be  
3 filed with the county attorney or authorized attorney.

4 (3) The department shall make a finding as to whether the  
5 application referred to in subsection (1) of this section should  
6 be allowed or denied. If the department finds that the application  
7 should be allowed, the department shall further find the amount  
8 of monthly assistance which should be paid with reference to such  
9 dependent child. Except as may be otherwise provided, payments  
10 shall be made by state warrant, and the amount of payments shall  
11 not exceed three hundred dollars per month when there is but  
12 one dependent child and one eligible caretaker in any home, plus  
13 an additional seventy-five dollars per month on behalf of each  
14 additional eligible person. No payments shall be made for amounts  
15 totaling less than ten dollars per month except in the recovery of  
16 overpayments.

17 (4) The amount which shall be paid as assistance with  
18 respect to a dependent child shall be based in each case upon the  
19 conditions disclosed by the investigation made by the department.  
20 An appeal shall lie from the finding made in each case to the  
21 chief executive officer of the department or his or her designated  
22 representative. Such appeal may be taken by any taxpayer or by any  
23 relative of such child. Proceedings for and upon appeal shall be  
24 conducted in the same manner as provided for in section 68-1016.

25 (5)(a) For the purpose of preventing dependency, the

1 department shall adopt and promulgate rules and regulations  
2 providing for services to former and potential recipients of aid to  
3 dependent children and medical assistance benefits. The department  
4 shall adopt and promulgate rules and regulations establishing  
5 programs and cooperating with programs of work incentive, work  
6 experience, job training, and education. The provisions of this  
7 section with regard to determination of need, amount of payment,  
8 maximum payment, and method of payment shall not be applicable to  
9 families or children included in such programs.

10 (b) If a recipient of aid to dependent children becomes  
11 ineligible for aid to dependent children as a result of increased  
12 hours of employment or increased income from employment after  
13 having participated in any of the programs established pursuant to  
14 subdivision (a) of this subsection, the recipient may be eligible  
15 for the following benefits, as provided in rules and regulations of  
16 the department in accordance with sections 402, 417, and 1925 of  
17 the federal Social Security Act, as amended, Public Law 100-485,  
18 in order to help the family during the transition from public  
19 assistance to independence:

20 (i) An ongoing transitional payment that is intended to  
21 meet the family's ongoing basic needs which may include food,  
22 clothing, shelter, utilities, household goods, personal care items,  
23 and general incidental expenses during the five months following  
24 the time the family becomes ineligible for assistance under the aid  
25 to dependent children program, if the family's earned income is at

1 or below one hundred eighty-five percent of the federal poverty  
2 level at the time the family becomes ineligible for the aid to  
3 dependent children program. Payments shall be made in five monthly  
4 payments, each equal to one-fifth of the aid to dependent children  
5 payment standard for the family's size at the time the family  
6 becomes ineligible for the aid to dependent children program. If  
7 during the five-month period, (A) the family's earnings exceed one  
8 hundred eighty-five percent of the federal poverty level, (B) the  
9 family members are no longer working, (C) the family ceases to  
10 be Nebraska residents, (D) there is no longer a minor child in  
11 the family's household, or (E) the family again becomes eligible  
12 for the aid to dependent children program, the family shall become  
13 ineligible for any remaining transitional benefits under this  
14 subdivision;

15 (ii) Child care as provided in subdivision (1)(c) of  
16 section 68-1724; and

17 (iii) Except as may be provided in accordance with  
18 subsection (2) of section 68-1713 and subdivision (1)(c) of section  
19 68-1724, medical assistance for up to twelve months after the month  
20 the recipient becomes employed and is no longer eligible for aid to  
21 dependent children.

22 (6) For purposes of sections 43-512 to 43-512.10 and  
23 43-512.12 to 43-512.18:

24 (a) Authorized attorney shall mean an attorney, employed  
25 by the county subject to the approval of the county board, employed

1 by the department, or appointed by the court, who is authorized  
2 to investigate and prosecute child, spousal, and medical support  
3 cases. An authorized attorney shall represent the state as provided  
4 in section 43-512.03;

5 (b) Child support shall be defined as provided in section  
6 43-1705;

7 (c) Medical support shall include all expenses associated  
8 with the birth of a child and, if required pursuant to section  
9 42-369 or ~~43-290~~, sections 53 to 61 of this act, medical and  
10 hospital insurance coverage or membership in a health maintenance  
11 organization or preferred provider organization;

12 (d) Spousal support shall be defined as provided in  
13 section 43-1715;

14 (e) State Disbursement Unit shall be defined as provided  
15 in section 43-3341; and

16 (f) Support shall be defined as provided in section  
17 43-3313.

18 Sec. 253. Section 43-512.03, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-512.03 (1) The county attorney or authorized attorney  
21 shall:

22 (a) On request by the Department of Health and Human  
23 Services as described in subsection (2) of this section or when  
24 the investigation or application filed under section 43-512 or  
25 43-512.02 justifies, file a complaint against a nonsupporting

1 parent or stepparent in the district, county, or separate juvenile  
2 court praying for an order for child or medical support in cases  
3 when there is no existing child or medical support order. After  
4 notice and hearing, the court shall adjudicate child and medical  
5 support liability of the nonsupporting parent or stepparent and  
6 enter an order accordingly;

7 (b) Enforce child, spousal, and medical support orders by  
8 an action for income withholding pursuant to the Income Withholding  
9 for Child Support Act;

10 (c) In addition to income withholding, enforce child,  
11 spousal, and medical support orders by other civil actions or  
12 administrative actions, citing the defendant for contempt, or  
13 filing a criminal complaint;

14 (d) Establish paternity and collect child and medical  
15 support on behalf of children born out of wedlock; and

16 (e) Carry out sections 43-512.12 to 43-512.18.

17 (2) The department may periodically review cases of  
18 individuals receiving enforcement services and make referrals to  
19 the county attorney or authorized attorney.

20 (3) In any action brought by or intervened in by a  
21 county attorney or authorized attorney under the Income Withholding  
22 for Child Support Act, the License Suspension Act, the Uniform  
23 Interstate Family Support Act, or sections 42-347 to 42-381,  
24 ~~43-290~~, 43-512 to 43-512.10, 43-512.12 to 43-512.18, 43-1401 to  
25 43-1418, ~~and~~ 43-3328 to 43-3339, and sections 53 to 61 of this act,

1 such attorneys shall represent the State of Nebraska.

2 (4) The State of Nebraska shall be a real party in  
3 interest in any action brought by or intervened in by a county  
4 attorney or authorized attorney for the purpose of establishing  
5 paternity or securing, modifying, suspending, or terminating child  
6 or medical support or in any action brought by or intervened in by  
7 a county attorney or authorized attorney to enforce an order for  
8 child, spousal, or medical support.

9 (5) Nothing in this section shall be construed to  
10 interpret representation by a county attorney or an authorized  
11 attorney as creating an attorney-client relationship between the  
12 county attorney or authorized attorney and any party or witness to  
13 the action, other than the State of Nebraska, regardless of the  
14 name in which the action is brought.

15 Sec. 254. Section 43-296, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 ~~43-296~~ All associations receiving ~~juveniles~~ children  
18 under the Nebraska Juvenile Code shall be subject to the same  
19 visitation, inspection, and supervision by the Department of Health  
20 and Human Services as are public charitable institutions of this  
21 state, and it shall be the duty of the department to pass annually  
22 upon the fitness of every such association as may receive or  
23 desire to receive ~~juveniles~~ children under the provisions of such  
24 code. Every such association shall annually, at such time as the  
25 department shall direct, make a report to the department showing

1 its condition, management, and competency to adequately care for  
2 such ~~juveniles~~ children as are or may be committed to it and such  
3 other facts as the department may require. Upon the department  
4 being satisfied that such association is competent and has adequate  
5 facilities to care for such ~~juveniles,~~ children, it shall issue to  
6 such association a certificate to that effect, which certificate  
7 shall continue in force for one year unless sooner revoked by  
8 the department. No ~~juvenile~~ child shall be committed to any such  
9 association which has not received such a certificate within the  
10 fifteen months immediately preceding the commitment. The court may  
11 at any time require from any association receiving or desiring to  
12 receive ~~juveniles~~ children under the ~~provisions~~ of the Nebraska  
13 Juvenile Code such reports, information, and statements as the  
14 judge shall deem proper and necessary for his or her action, and  
15 the court shall in no case be required to commit a ~~juvenile~~ child  
16 to any association whose standing, conduct, or care of ~~juveniles~~  
17 children or ability to care for the same is not satisfactory to the  
18 court.

19           Sec. 255. Section 43-903, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           43-903 Any court acting pursuant to the Nebraska Juvenile  
22 Code shall commit to the care of the Department of Health and  
23 Human Services or any regularly organized and incorporated society  
24 or institution, for the purpose of caring for and placing in good  
25 family homes, all children, except those already committed to the

1 care of responsible persons or institutions, who have been decreed  
2 to be children ~~as described in subdivision (3)(a) of section 43-247~~  
3 in need of state protection under the code and who for that reason  
4 must be removed from the care of their parents or legal guardians.

5 Sec. 256. Section 43-1002, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-1002 The Governor is hereby authorized and directed  
8 to execute a compact on behalf of this state with any other state  
9 or states legally joining therein in the form substantially as  
10 follows:

11 The contracting states solemnly agree:

12 ARTICLE I - FINDINGS AND PURPOSES

13 That juveniles who are not under proper supervision and  
14 control, or who have absconded, escaped or run away, are likely  
15 to endanger their own health, morals and welfare, and the health,  
16 morals and welfare of others. The cooperation of the states party  
17 to this compact is therefor necessary to provide for the welfare  
18 and protection of juveniles and of the public with respect to (1)  
19 cooperative supervision of delinquent juveniles on probation or  
20 parole; (2) the return, from one state to another, of delinquent  
21 juveniles who have escaped or absconded; (3) the return, from one  
22 state to another, of nondelinquent juveniles who have run away from  
23 home; and (4) additional measures for the protection of juveniles  
24 and of the public, which any two or more of the party states  
25 may find desirable to undertake cooperatively. In carrying out the

1 provisions of this compact the party states shall be guided by  
2 the noncriminal, performative and protective policies which guide  
3 their laws concerning delinquent, neglected or dependent juveniles  
4 generally. It shall be the policy of the states party to this  
5 compact to cooperate and observe their respective responsibilities  
6 for the prompt return and acceptance of juveniles and delinquent  
7 juveniles who become subject to the provisions of this compact.  
8 The provisions of this compact shall be reasonably and liberally  
9 construed to accomplish the foregoing purposes.

10 ARTICLE II - EXISTING RIGHTS AND REMEDIES

11 That all remedies and procedures provided by this compact  
12 shall be in addition to and not in substitution for other rights,  
13 remedies and procedures, and shall not be in derogation of parental  
14 rights and responsibilities.

15 ARTICLE III - DEFINITIONS

16 That, for the purposes of this compact, delinquent  
17 juvenile means any juvenile who has been adjudged to be ~~within~~  
18 ~~the provisions of subdivision (1), (2), or (4) of section 43-247~~  
19 a child in need of state services or a child in need of state  
20 rehabilitation under the Nebraska Juvenile Code and who, at the  
21 time the provisions of this compact are invoked, is still subject  
22 to the jurisdiction of the court that has made such adjudication  
23 or to the jurisdiction or supervision of an agency or institution  
24 pursuant to an order of such court; probation or parole means  
25 any kind of conditional release of juveniles authorized under the

1 laws of the states party hereto; court means any court having  
2 jurisdiction over delinquent, neglected or dependent children;  
3 state means any state, territory or possessions of the United  
4 States, the District of Columbia and the Commonwealth of Puerto  
5 Rico; and residence or any variant thereof means a place at which a  
6 home or regular place of abode is maintained.

7 ARTICLE IV - RETURN OF RUNAWAYS

8 (a) That, the parent, guardian, person or agency entitled  
9 to legal custody of a juvenile who has not been adjudged  
10 delinquent but who has run away without the consent of such  
11 parent, guardian, person or agency may petition the appropriate  
12 court in the demanding state for the issuance of a requisition  
13 for his return. The petition shall state the name and age of the  
14 juvenile, the name of the petitioner and the basis of entitlement  
15 to the juvenile's custody. The circumstances of his running away,  
16 his location if known at the time application is made and such  
17 other facts as may tend to show that the juvenile who has run  
18 away is endangering his own welfare or the welfare of others and  
19 is not an emancipated minor. The petition shall be verified by  
20 affidavit, shall be executed in duplicate and shall be accompanied  
21 by two certified copies of the documents on which the petitioner's  
22 entitlement to the juvenile's custody is based, such as birth  
23 certificates, letters of guardianship, or custody decrees. Such  
24 further affidavits and other documents as may be deemed proper  
25 may be submitted with such petition. The judge of the court to

1 which this application is made may hold a hearing thereon to  
2 determine whether for the purposes of this compact, the petitioner  
3 is entitled to the legal custody of the juvenile, whether or not  
4 it appears that the juvenile has in fact run away without consent,  
5 whether or not he is an emancipated minor, and whether or not it is  
6 in the best interest of the juvenile to compel his return to the  
7 state. If the judge determines, either with or without a hearing,  
8 that the juvenile should be returned, he shall present to the  
9 appropriate court or to the executive authority of the state where  
10 the juvenile is alleged to be located a written requisition for the  
11 return of such juvenile. Such requisition shall set forth the name  
12 and age of the juvenile, the determination of the court that the  
13 juvenile has run away without the consent of a parent, guardian,  
14 person or agency entitled to his legal custody, and that it is in  
15 the best interest and for the protection of such juvenile that he  
16 be returned. In the event that a proceeding for the adjudication  
17 of the juvenile as a delinquent, neglected or dependent juvenile is  
18 pending in the court at the time when such juvenile runs away, the  
19 court may issue a requisition for the return of such juvenile upon  
20 its own motion, regardless of the consent of the parent, guardian,  
21 person or agency entitled to legal custody, reciting therein the  
22 nature and circumstances of the pending proceeding. The requisition  
23 shall in every case be executed in duplicate and shall be signed  
24 by the judge. One copy of the requisition shall be filed with the  
25 compact administrator of the demanding state, there to remain on

1 file subject to the provisions of law governing records of such  
2 court. Upon the receipt of a requisition demanding the return of  
3 a juvenile who has run away, the court or the executive authority  
4 to whom the requisition is addressed shall issue an order to any  
5 peace officer or other appropriate person directing him to take  
6 into custody and detain such juvenile. Such detention order must  
7 substantially recite the facts necessary to the validity of its  
8 issuance hereunder. No juvenile detained upon such order shall be  
9 delivered over to the officer whom the court demanding him shall  
10 have appointed to receive him, unless he shall first be taken  
11 forthwith before a judge of a court in the state, who shall inform  
12 him of the demand made for his return, and who may appoint counsel  
13 or guardian ad litem for him. If the judge of such court shall find  
14 that the requisition is in order, he shall deliver such juvenile  
15 over to the officer whom the court demanding him shall have  
16 appointed to receive him. The judge, however, may fix a reasonable  
17 time to be allowed for the purpose of testing the legality of the  
18 proceeding.

19           Upon reasonable information that a person is a juvenile  
20 who has run away from another state party to this compact without  
21 the consent of a parent, guardian, person or agency entitled  
22 to his legal custody, such juvenile may be taken into custody  
23 without a requisition and brought forthwith before a judge of  
24 the appropriate court who may appoint counsel or guardian ad  
25 litem for such juvenile and who shall determine after a hearing

1 whether sufficient cause exists to hold the person, subject to  
2 the order of the court, for his own protection and welfare, for  
3 such a time not exceeding ninety days as will enable his return  
4 to another state party to this compact pursuant to a requisition  
5 for his return from a court of that state. If, at the time when  
6 a state seeks the return of a juvenile who has run away, there  
7 is pending in the state wherein he is found any criminal charge,  
8 or any proceeding to have him adjudicated a delinquent juvenile  
9 for an act committed in such state, or if he is suspected of  
10 having committed within such state a criminal offense or an act of  
11 juvenile delinquency, he shall not be returned without the consent  
12 of such state until discharged from prosecution or other form of  
13 proceeding, imprisonment, detention or supervision for such offense  
14 or juvenile delinquency. The duly accredited officers of any state  
15 party to this compact, upon the establishment of their authority  
16 and the identity of the juvenile being returned, shall be permitted  
17 to transport such juvenile through any and all states party to this  
18 compact, without interference. Upon his return to the state from  
19 which he ran away, the juvenile shall be subject to such further  
20 proceedings as may be appropriate under the laws of that state.

21 (b) That the state to which a juvenile is returned under  
22 this article shall be responsible for payment of the transportation  
23 costs of such return.

24 (c) That juvenile as used in this article means any  
25 person who is a minor under the law of the state of residence

1 of the parent, guardian, person or agency entitled to the legal  
2 custody of such minor.

3 ARTICLE V - RETURN OF ESCAPEES AND ABSCONDERS

4 (a) That the appropriate person or authority from whose  
5 probation or parole supervision a delinquent juvenile has absconded  
6 or from whose institutional custody he has escaped shall present  
7 to the appropriate court or to the executive authority of the  
8 state where the delinquent juvenile is alleged to be located a  
9 written requisition for the return of such delinquent juvenile.  
10 Such requisition shall state the name and age of the delinquent  
11 juvenile, the particulars of his adjudication as a delinquent  
12 juvenile, the circumstances of the breach of the terms of his  
13 probation or parole or of his escape from an institution or agency  
14 vested with his legal custody or supervision, and the location of  
15 such delinquent juvenile, if known, at the time the requisition  
16 is made. The requisition shall be verified by affidavit, shall be  
17 executed in duplicate, and shall be accompanied by two certified  
18 copies of the judgment, formal adjudication, or order of commitment  
19 which subjects such delinquent juvenile to probation or parole or  
20 to the legal custody of the institution or agency concerned. Such  
21 further affidavits and other documents as may be deemed proper may  
22 be submitted with such requisition. One copy of the requisition  
23 shall be filed with the compact administrator of the demanding  
24 state, there to remain on file subject to the provisions of law  
25 governing records of the appropriate court. Upon the receipt of a

1 requisition demanding the return of a delinquent juvenile who has  
2 absconded or escaped, the court or the executive authority to whom  
3 the requisition is addressed shall issue an order to any peace  
4 officer or other appropriate person directing him to take into  
5 custody and detain such delinquent juvenile. Such detention order  
6 must substantially recite the facts necessary to the validity of  
7 its issuance hereunder. No delinquent juvenile detained upon such  
8 order shall be delivered over to the officer whom the appropriate  
9 person or authority demanding him shall have appointed to receive  
10 him, unless he shall first be taken forthwith before a judge of  
11 an appropriate court in the state, who shall inform him of the  
12 demand made for his return and who may appoint counsel or guardian  
13 ad litem for him. If the judge of such court shall find that the  
14 requisition is in order, he shall deliver such delinquent juvenile  
15 over to the officer whom the appropriate person or authority  
16 demanding him shall have appointed to receive him. The judge,  
17 however, may fix a reasonable time to be allowed for the purpose of  
18 testing the legality of the proceeding.

19           Upon reasonable information that a person is a delinquent  
20 juvenile who has absconded while on probation or parole, or escaped  
21 from an institution or agency vested with his legal custody or  
22 supervision in any state party to this compact, such person may be  
23 taken into custody in any other state party to this compact without  
24 a requisition. But in such event, he must be taken forthwith  
25 before a judge of the appropriate court, who may appoint counsel

1 or guardian ad litem for such person and who shall determine,  
2 after a hearing, whether sufficient cause exists to hold the person  
3 subject to the order of the court for such a time, not exceeding  
4 ninety days, as will enable his detention under a detention order  
5 issued on a requisition pursuant to this article. If, at the time  
6 when a state seeks the return of a delinquent juvenile who has  
7 either absconded while on probation or parole or escaped from an  
8 institution or agency vested with his legal custody or supervision,  
9 there is pending in the state wherein he is detained any criminal  
10 charge or any proceeding to have him adjudicated a delinquent  
11 juvenile for an act committed in such state, or if he is suspected  
12 of having committed within such state a criminal offense or an  
13 act of juvenile delinquency, he shall not be returned without  
14 the consent of such state until discharged from prosecution or  
15 other form of proceeding, imprisonment, detention or supervision  
16 for such offense or juvenile delinquency. The duly accredited  
17 officers of any state party to this compact, upon the establishment  
18 of their authority and the identity of the delinquent juvenile  
19 being returned, shall be permitted to transport such delinquent  
20 juvenile through any and all states party to this compact, without  
21 interference. Upon his return to the state from which he escaped or  
22 absconded, the delinquent juvenile shall be subject to such further  
23 proceedings as may be appropriate under the laws of that state.

24 (b) That the state to which a delinquent juvenile is  
25 returned under this article shall be responsible for the payment of

1 the transportation costs of such return.

2 ARTICLE VI - VOLUNTARY RETURN PROCEDURE

3 That any delinquent juvenile who has absconded while on  
4 probation or parole, or escaped from an institution or agency  
5 vested with his legal custody or supervision in any state party  
6 to this compact, and any juvenile who has run away from any  
7 state party to this compact, who is taken into custody without  
8 a requisition in another state party to this compact under the  
9 provisions of Article IV (a) or of Article V (a), may consent  
10 to his immediate return to the state from which he absconded,  
11 escaped or ran away. Such consent shall be given by the juvenile  
12 or delinquent juvenile and his counsel or guardian ad litem if  
13 any, by executing or subscribing a writing, in the presence of  
14 a judge of the appropriate court, which states that the juvenile  
15 or delinquent juvenile and his counsel or guardian ad litem, if  
16 any, consent to his return to the demanding state. Before such  
17 consent shall be executed or subscribed, however, the judge, in the  
18 presence of counsel or guardian ad litem, if any, shall inform the  
19 juvenile or delinquent juvenile of his rights under this compact.  
20 When the consent has been duly executed, it shall be forwarded  
21 to and filed with the compact administrator of the state in which  
22 the court is located and the judge shall direct the officer having  
23 the juvenile or delinquent juvenile in custody to deliver him to  
24 the duly accredited officer or officers of the state demanding his  
25 return, and shall cause to be delivered to such officer or officers

1 a copy of the consent. The court may, however, upon the request  
2 of the state to which the juvenile or delinquent juvenile is being  
3 returned, order him to return unaccompanied to such state and shall  
4 provide him with a copy of such court order; in such event a copy  
5 of the consent shall be forwarded to the compact administrator of  
6 the state to which the juvenile or delinquent juvenile is ordered  
7 to return.

8 ARTICLE VII - COOPERATIVE SUPERVISION OF

9 PROBATIONERS AND PAROLEES

10 (a) That the duly constituted judicial and administrative  
11 authorities of a state party to this compact (herein called sending  
12 state) may permit any delinquent juvenile within such state, placed  
13 on probation or parole, to reside in any other state party to  
14 this compact (herein called receiving state) while on probation  
15 or parole, and the receiving state shall accept such delinquent  
16 juvenile, if the parent, guardian or person entitled to the legal  
17 custody of such delinquent juvenile is residing or undertakes to  
18 reside within the receiving state. Before granting such permission,  
19 opportunity shall be given to the receiving state to make such  
20 investigations as it deems necessary. The authorities of the  
21 sending state shall send to the authorities of the receiving state  
22 copies of pertinent court orders, social case studies and all other  
23 available information which may be of value to and assist the  
24 receiving state in supervising a probationer or parolee under this  
25 compact. A receiving state, in its discretion, may agree to accept

1 supervision of a probationer or parolee in cases where the parent,  
2 guardian or person entitled to the legal custody of the delinquent  
3 juvenile is not a resident of the receiving state, and if so  
4 accepted the sending state may transfer supervision accordingly.

5 (b) That each receiving state will assume the duties of  
6 visitation and of supervision over any such delinquent juvenile  
7 and in the exercise of those duties will be governed by the same  
8 standards of visitation and supervision that prevail for its own  
9 delinquent juveniles released on probation or parole.

10 (c) That, after consultation between the appropriate  
11 authorities of the sending state and of the receiving state as  
12 to the desirability and necessity of returning such a delinquent  
13 juvenile, the duly accredited officers of a sending state may  
14 enter a receiving state and there apprehend and retake any such  
15 delinquent juvenile on probation or parole. For that purpose, no  
16 formalities will be required, other than establishing the authority  
17 of the officer and the identity of the delinquent juvenile to be  
18 returned. The decision of the sending state to retake a delinquent  
19 juvenile on probation or parole shall be conclusive upon and not  
20 reviewable within the receiving state, but if, at the time the  
21 sending state seeks to retake a delinquent juvenile on probation  
22 or parole, there is pending against him within the receiving state  
23 any criminal charge or any proceeding to have him adjudicated a  
24 delinquent juvenile for any act committed in such state or if  
25 he is suspected of having committed within such state a criminal

1 offense or an act of juvenile delinquency, he shall not be returned  
2 without the consent of the receiving state until discharged from  
3 prosecution or other form of proceeding, imprisonment, detention  
4 or supervision for such offense or juvenile delinquency. The duly  
5 accredited officers of the sending state shall be permitted to  
6 transport delinquent juveniles being so returned through any and  
7 all states party to this compact, without interference.

8 (d) That the sending state shall be responsible under  
9 this article for paying the costs of transporting any delinquent  
10 juvenile to the receiving state or of returning any delinquent  
11 juvenile to the sending state.

12 ARTICLE VIII - RESPONSIBILITY FOR COSTS

13 (a) That the provisions of Article IV (b), V (b) and  
14 VII (d) of this compact shall not be construed to alter or  
15 affect any internal relationship among the departments, agencies  
16 and officers of and in the government of a party state, or between  
17 a party state and its subdivisions, as to the payment of costs, or  
18 responsibilities therefor.

19 (b) That nothing in this compact shall be construed to  
20 prevent any party state or subdivision thereof from asserting any  
21 right against any person, agency or other entity in regard to  
22 costs for which such party state or subdivision thereof may be  
23 responsible pursuant to Articles IV (b), V (b) or VII (d) of this  
24 compact.

25 ARTICLE IX - DETENTION PRACTICES

1           That, to every extent possible, it shall be the policy  
2 of states party to this compact that no juvenile or delinquent  
3 juvenile shall be placed or detained in any prison, jail or  
4 lockup nor be detained or transported in association with criminal,  
5 vicious or dissolute persons.

6           ARTICLE X - SUPPLEMENTARY AGREEMENTS

7           That the duly constituted administrative authorities of a  
8 state party to this compact may enter into supplementary agreements  
9 with any other state or states party hereto for the cooperative  
10 care, treatment and rehabilitation of delinquent juveniles whenever  
11 they shall find that such agreements will improve the facilities or  
12 programs available for such care, treatment and rehabilitation.  
13 Such care, treatment and rehabilitation may be provided in  
14 an institution located within any state entering into such  
15 supplementary agreement. Such supplementary agreements shall (1)  
16 provide the rates to be paid for the care, treatment and custody of  
17 such delinquent juveniles, taking into consideration the character  
18 of facilities, services and subsistence furnished; (2) provide that  
19 the delinquent juvenile shall be given a court hearing prior to his  
20 being sent to another state for care, treatment and custody; (3)  
21 provide that the state receiving such a delinquent juvenile in one  
22 of its institutions shall act solely as agent for the state sending  
23 such delinquent juvenile; (4) provide that the sending state shall  
24 at all times retain jurisdiction over delinquent juveniles sent  
25 to an institution in another state; (5) provide for reasonable

1 inspection of such institutions by the sending state; (6) provide  
2 that the consent of the parent, guardian, person or agency entitled  
3 to the legal custody of said delinquent juvenile shall be secured  
4 prior to his being sent to another state; and (7) make provision  
5 for such other matters and details as shall be necessary to protect  
6 the rights and equities of such delinquent juveniles and of the  
7 cooperating states.

8 ARTICLE XI - ACCEPTANCE OF FEDERAL AND OTHER AID

9 That any state party to this compact may accept any and  
10 all donations, gifts and grants of money, equipment and services  
11 from the federal or any local government, or any agency thereof and  
12 from any person, firm or corporation, for any of the purposes and  
13 functions of this compact, and may receive and utilize the same  
14 subject to the terms, conditions and regulations governing such  
15 donations, gifts and grants.

16 ARTICLE XII - COMPACT ADMINISTRATORS

17 That the Governor of each state party to this compact  
18 shall designate an officer who, acting jointly with like officers  
19 of other party states, shall promulgate rules and regulations  
20 to carry out more effectively the terms and provisions of this  
21 compact.

22 ARTICLE XIII - EXECUTION OF COMPACT

23 That this compact shall become operative immediately upon  
24 its execution by any state as between it and any other state or  
25 states so executing. When executed it shall have the full force and

1 effect of law within such state, the form of execution to be in  
2 accordance with the laws of the executing state.

3 ARTICLE XIV - RENUNCIATION

4 That this compact shall continue in force and remain  
5 binding upon each executing state until renounced by it.  
6 Renunciation of this compact shall be by the same authority  
7 which executed it by sending six-months' notice in writing of its  
8 intention to withdraw from the compact to the other states party  
9 hereto. The duties and obligations of a renouncing state under  
10 Article VII hereof shall continue as to parolees and probationers  
11 residing therein at the time of withdrawal until retaken or  
12 finally discharged. Supplementary agreements entered into under  
13 Article X hereof shall be subject to renunciation as provided by  
14 such supplementary agreements, and shall not be subject to the  
15 six-months' renunciation notice of the present article.

16 ARTICLE XV - SEVERABILITY

17 That the provisions of this compact shall be severable  
18 and if any phrase, clause, sentence or provision of this compact  
19 is declared to be contrary to the constitution of any participating  
20 state or of the United States or the applicability thereof to any  
21 government, agency, person or circumstance is held invalid, the  
22 validity of the remainder of this compact and the applicability  
23 thereof to any government, agency, person or circumstances shall  
24 not be affected thereby. If this compact shall be held contrary to  
25 the constitution of any state participating therein, the compact

1 shall remain in full force and effect as to the remaining states  
2 and in full force and effect as to the state affected as to all  
3 severable matters.

4 Sec. 257. Section 43-1230, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 43-1230 (a) A court of this state shall treat a foreign  
7 country as if it were a state of the United States for the purpose  
8 of applying sections 43-1226 to 43-1247.

9 (b) Except as otherwise provided in subsection (c) or (d)  
10 of this section, a child custody determination made in a foreign  
11 country under factual circumstances in substantial conformity  
12 with the jurisdictional standards of the Uniform Child Custody  
13 Jurisdiction and Enforcement Act shall be recognized and enforced  
14 under sections 43-1248 to 43-1264.

15 (c) A court of this state need not apply the act if  
16 the child custody law of a foreign country violates fundamental  
17 principles of human rights.

18 (d) A court of this state need not recognize and enforce  
19 an otherwise valid child custody determination of a foreign court  
20 under the act if it determines (1) that the child is a habitual  
21 resident of Nebraska as defined under the provisions of the  
22 Hague Convention on the Civil Aspects of International Child  
23 Abduction, as implemented by the International Child Abduction  
24 Remedies Act, 42 U.S.C. 11601 et seq., and (2) that the child  
25 would be at significant and demonstrable risk of child abuse or

1 neglect as defined in ~~section 28-710~~ sections 4, 5, and 38 of  
2 this act if the foreign child custody determination is recognized  
3 and enforced. Such a determination shall create a rebuttable  
4 presumption against recognition and enforcement of the foreign  
5 child custody determination and, thereafter, a court of this state  
6 may exercise child custody jurisdiction pursuant to subdivision  
7 (a) (1) of section 43-1238.

8 (e) The changes made to this section by Laws 2007,  
9 LB 341, shall be deemed remedial and shall apply to all cases  
10 pending on or before February 2, 2007, and to all cases initiated  
11 subsequent thereto.

12 Sec. 258. Sections 43-1302 to 43-1321, this section, and  
13 section 259 of this act shall be known and may be cited as the  
14 Foster Care Review Board Act.

15 Sec. 259. For purposes of the Foster Care Review Board  
16 Act:

17 (1) Case plan has the same meaning as in section 8 of  
18 this act;

19 (2) Child-caring agency has the same meaning as in  
20 section 71-1902;

21 (3) Child-placing agency has the same meaning as in  
22 section 71-1902;

23 (4) Custodian has the same meaning as in section 16 of  
24 this act;

25 (5) Department means the Department of Health and Human

1 Services;

2 (6) Family unit means the social unit consisting of the  
3 foster child and the parent or parents or any person in the  
4 relationship of a parent, including a grandparent, and any siblings  
5 with whom the foster child legally resided prior to placement in  
6 foster care;

7 (7) Foster care has the same meaning as in section 28  
8 of this act and also means all placements of children who have  
9 been voluntarily relinquished for adoption pursuant to section 244  
10 of this act to the Department of Health and Human Services or any  
11 licensed child placement agency;

12 (8) Foster care provider means any individual or facility  
13 providing foster care;

14 (9) Local board means a local foster care review board  
15 created pursuant to section 43-1304;

16 (10) Permanency plan has the same meaning as in section  
17 42 of this act;

18 (11) Permanent guardian has the same meaning as in  
19 section 43 of this act;

20 (12) State board means the State Foster Care Review Board  
21 created pursuant to section 43-1302; and

22 (13) Voluntary placement means the placement by a parent  
23 or permanent guardian who relinquishes the possession and care of a  
24 child to a third party, individual, or agency.

25 Sec. 260. Section 43-1303, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-1303 (1) The state board shall meet at least twice per  
3 year. The state board shall establish a statewide ~~register~~ registry  
4 of all foster care ~~placements occurring~~ providers within the state,  
5 and there shall be a monthly report made to the ~~state board~~  
6 statewide registry of all children placed in foster care placements  
7 by the Department of Health and Human Services, any child-placing  
8 agency, or any court in a form as developed by the state board  
9 in consultation with representatives of entities required to make  
10 such reports. For each child entering and leaving foster care, such  
11 monthly report shall consist of identifying information, placement  
12 information, and the case plan or permanency plan, ~~developed by~~  
13 ~~the person or court in charge of the child pursuant to section~~  
14 ~~43-1312~~. The department and every court and child-placing agency  
15 shall ~~report any~~ file a report with the board regarding any child  
16 placed in foster care placement within three working days after  
17 the placement is made. The report shall contain the following  
18 information:

19           (a) Child identification information, including name,  
20 social security number, date of birth, gender, race, and religion;

21           (b) Identification information for parents and  
22 stepparents, including name, social security number, address, and  
23 status of parental rights;

24           (c) Placement information, including initial placement  
25 date, current placement date, and the name and address of the

1 foster care provider;

2 (d) Court status information, including which court has  
3 jurisdiction, initial custody date, court hearing ~~date,~~ dates, and  
4 results of ~~the court hearing,~~ all court hearings;

5 (e) Agency or other entity having custody of the child;

6 (f) Case ~~worker,~~ manager; and

7 (g) Permanency Plan ~~Objective,~~ plan.

8 (2) The state board shall review the activities of local  
9 boards and may adopt and promulgate its own rules and regulations.  
10 Such rules and regulations shall provide for the following:

11 (a) Establishment of training programs for local board  
12 members which shall include an initial training program and  
13 periodic inservice training programs;

14 (b) Development of procedures for local boards;

15 (c) Establishment of a central record-keeping facility  
16 for all local board files, including individual case reviews;

17 (d) Accumulation of data and the making of annual reports  
18 on children in foster care. Such reports shall include (i) personal  
19 data on length of time in foster care, (ii) number of placements,  
20 (iii) frequency and results of court review, and (iv) number  
21 of children supervised by the foster care programs in the state  
22 annually;

23 (e) To the extent not prohibited by section 43-1310,  
24 evaluation of the judicial and administrative data collected on  
25 foster care and the dissemination of such data to the judiciary,

1 public and private agencies, the department, and members of the  
2 public; and

3 (f) Manner in which the state board shall determine the  
4 appropriateness of requesting a review hearing as provided for in  
5 section ~~43-1313~~, 117 of this act.

6 (3) The state board, upon completion of a review of  
7 local board activities, shall report and make recommendations  
8 to the department and county welfare offices. Such reports and  
9 recommendations shall include, but not be limited to, the annual  
10 judicial and administrative data collected on foster care pursuant  
11 to subsection (2) of this section and the annual evaluation of  
12 such data. In addition, the state board shall provide copies of  
13 such reports and recommendations to each court having the authority  
14 to make foster care placements. The state board may visit and  
15 observe foster care facilities in order to ascertain whether the  
16 individual physical, psychological, and sociological needs of each  
17 foster child are being met.

18 Sec. 261. Section 43-1304, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-1304 The state board shall establish local foster care  
21 review boards for the review of cases of children in foster care.  
22 ~~placement.~~ The state board shall select members to serve on local  
23 boards from a list of applications submitted to the state board.  
24 Each local board shall consist of not less than four and not  
25 more than ten members. The members of the board shall reasonably

1 represent the various social, economic, racial, and ethnic groups  
 2 of the county or counties from which its members may be appointed.  
 3 A person employed by the state board, the ~~Department of Health and~~  
 4 ~~Human Services~~, department, a child-caring agency, a child-placing  
 5 agency, or a court shall not be appointed to a local board. A list  
 6 of the members of each local board shall be sent to the department.

7           Sec. 262. Section 43-1307, Reissue Revised Statutes of  
 8 Nebraska, is amended to read:

9           43-1307 Each court which has placed a child in foster  
 10 care shall send to the state board or designated local board (1) a  
 11 copy of the case plan or permanency plan, ~~prepared by the person~~  
 12 ~~or court in charge of the child in accordance with section 43-1312,~~  
 13 ~~to effectuate rehabilitation of the foster child and family unit~~  
 14 ~~or permanent placement of the child~~ and (2) a copy of the progress  
 15 reports as they relate to the case plan or permanency plan,  
 16 including, but not limited to, the court order and the report and  
 17 recommendations of the guardian ad litem.

18           Sec. 263. Section 43-1308, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20           43-1308 (1) Except as otherwise provided in the Nebraska  
 21 Indian Child Welfare Act, the state board or designated local board  
 22 shall:

23           (a) Review at least once every six months the case of  
 24 each child in a foster care ~~placement~~ to determine what efforts  
 25 have been made to ~~carry out the plan~~ implement the case plan or

1 permanency plan; ~~for rehabilitation of the foster child and family~~  
2 ~~unit or for permanent placement of such child pursuant to section~~  
3 ~~43-1312;~~

4 (b) ~~Submit~~ Within thirty days after the review, submit  
5 to the court which placed the child in foster care the board's  
6 ~~having jurisdiction over such child for the purposes of foster~~  
7 ~~care placement,~~ ~~within thirty days after the review,~~ its findings  
8 and recommendations regarding the efforts and progress made to  
9 carry out the case plan or permanency plan established pursuant to  
10 ~~section 43-1312~~ together with any other recommendations it chooses  
11 to make regarding the child. The findings and recommendations  
12 shall include whether there is a need for continued out-of-home  
13 placement, whether the current placement is safe and appropriate,  
14 the specific reasons for the findings and recommendations,  
15 including factors, opinions, and rationale considered in its  
16 review, whether the grounds for termination of parental rights  
17 under section ~~43-292~~ 132 of this act appear to exist, and the date  
18 of the next review by the state board or designated local board;

19 (c) If the return of the child to his or her parents  
20 is not likely, recommend referral for adoption and termination of  
21 parental rights, guardianship, placement with a relative, or, as a  
22 last resort, another planned, permanent living arrangement; and

23 (d) Promote and encourage stability and continuity in  
24 foster care by discouraging unnecessary changes in the placement  
25 of foster children and by encouraging the recruitment of foster

1 parents who may be eligible as adoptive parents.

2 (2) When the state board determines that the interests of  
3 a child in a foster care ~~placement~~ would be served thereby, the  
4 state board may request a review hearing as provided for in section  
5 ~~43-1313~~, 117 of this act.

6 Sec. 264. Section 43-1309, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-1309 Upon the request of the state board or the  
9 designated local board, any records pertaining to a case assigned  
10 to such board, or upon the request of the ~~Department of Health~~  
11 ~~and Human Services~~, department, any records pertaining to a case  
12 assigned to the department, shall be furnished to the requesting  
13 board or department by the agency charged with the child or any  
14 public official or employee of a political subdivision having  
15 relevant contact with the child. Upon the request of the state  
16 board or designated local board, and if such information is  
17 not obtainable elsewhere, the court having jurisdiction of the  
18 foster child shall release such information to the state board or  
19 designated local board as the court deems necessary to determine  
20 the physical, psychological, and sociological circumstances of such  
21 foster child.

22 Sec. 265. Section 43-1310, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-1310 All records and information regarding foster  
25 children and their parents or relatives in the possession of

1 the state board or local board shall be deemed confidential.  
2 Unauthorized disclosure of such confidential records and  
3 information or any violation of the rules and regulations of the  
4 ~~Department of Health and Human Services~~ department or the state  
5 board shall be a Class III misdemeanor.

6 Sec. 266. Section 43-1314.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 43-1314.01 (1) The State Foster Care Review Board shall  
9 be responsible for the conduct of periodic reviews which shall  
10 be identified as reviews which meet the federal requirements for  
11 six-month case reviews pursuant to the federal Adoption Assistance  
12 and Child Welfare Act of 1980, Public Law 96-272. The state  
13 board shall be fiscally responsible for any noncompliance sanctions  
14 imposed by the federal government related to the requirements  
15 for review outlined in the federal Adoption Assistance and Child  
16 Welfare Act of 1980, Public Law 96-272. It is the intent of  
17 the Legislature that beginning October 1, 1996, the state board  
18 shall be the only state agency with the responsibility to conduct  
19 six-month case reviews pursuant to the federal Adoption Assistance  
20 and Child Welfare Act of 1980, Public Law 96-272.

21 (2) It is the intent of the Legislature that any  
22 six-month court review of a juvenile pursuant to ~~sections 43-278~~  
23 ~~and 43-1313~~ section 117 of this act shall be identified as a review  
24 which meets the federal requirements for six-month case reviews  
25 pursuant to the federal Adoption Assistance and Child Welfare Act

1 of 1980, Public Law 96-272.

2 (3) The state board may assist the Department of  
3 Health and Human Services as to eligibility under Title IV-E  
4 for state wards and eligibility for Supplemental Security Income,  
5 Supplemental Security Disability Income, Veterans Administration,  
6 or aid to families with dependent children benefits, for child  
7 support orders of the court, and for medical insurance other than  
8 medicaid.

9 Sec. 267. Section 43-1314.02, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 43-1314.02 (1) The court shall provide a caregiver  
12 information form to the foster parent, preadoptive parent,  
13 guardian, or relative providing care for the child when giving  
14 notice of a court review described in ~~section 43-1314.~~ section  
15 117 of this act. The form ~~is to~~ shall be dated and signed by the  
16 caregiver and shall, at a minimum, request the following:

17 (a) The child's name, age, and date of birth;

18 (b) The name of the caregiver, his or her telephone  
19 number and address, and whether the caregiver is a foster parent,  
20 preadoptive parent, guardian, or relative;

21 (c) How long the child has been in the caregiver's care;

22 (d) A current picture of the child;

23 (e) The current status of the child's medical, dental,  
24 and general physical condition;

25 (f) The current status of the child's emotional

1 condition;

2 (g) The current status of the child's education;

3 (h) Whether or not the child is a special education  
4 student and the date of the last individualized educational plan;

5 (i) A brief description of the child's social skills and  
6 peer relationships;

7 (j) A brief description of the child's special interests  
8 and activities;

9 (k) A brief description of the child's reactions before,  
10 during, and after visits;

11 (l) Whether or not the child is receiving all necessary  
12 services;

13 (m) The date and place of each visit by the caseworker  
14 with the child;

15 (n) A description of the method by which the guardian ad  
16 litem has acquired information about the child; and

17 (o) Whether or not the caregiver can make a permanent  
18 commitment to the child if the child does not return home.

19 (2) A caregiver information form shall be developed by  
20 the Supreme Court. Such form shall be made a part of the record in  
21 each court that reviews the child's foster care proceedings.

22 Sec. 268. Section 43-1321, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-1321 There is hereby created the Foster Care Review  
25 Board Cash Fund. The fund shall be administered by the State Foster

1 Care Review Board. The board shall remit revenue from the following  
2 sources to the State Treasurer for credit to the fund:

3 (1) Registration and other fees received for training,  
4 seminars, or conferences fully or partially sponsored or hosted by  
5 the board;

6 (2) Payments to offset printing, postage, and other  
7 expenses for books, documents, or other materials printed or  
8 published by the board; and

9 (3) Money received by the board as gifts, grants,  
10 reimbursements, or appropriations from any source intended for  
11 the purposes of the fund.

12 The fund shall be used for the administration of the  
13 Foster Care Review Board Act.

14 Any money in the fund available for investment shall be  
15 invested by the state investment officer pursuant to the Nebraska  
16 Capital Expansion Act and the Nebraska State Funds Investment Act.

17 Sec. 269. For purposes of sections 269 to 285 of this  
18 act:

19 (1) Department means the Department of Health and Human  
20 Services; and

21 (2) Child in need of state protection has the same  
22 meaning as in section 11 of this act.

23 Sec. 270. Section 28-718, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~28-718~~ (1) There shall be a central register of child

1 protection cases which are cases involving children who are or  
2 who are alleged to be children in need of state protection, known  
3 as the Child Protection Registry, maintained in the department,  
4 containing records of all reports of child abuse or neglect opened  
5 for investigation as provided in section 28-713 and classified as  
6 either court substantiated or inconclusive as provided in section  
7 28-720.

8 (2) The department shall retain all information from all  
9 reports of suspected child abuse or neglect required by sections  
10 64 to 68 of this act and all records generated as a result of  
11 such reports in a tracking system of child protection cases. The  
12 tracking system shall be used for statistical purposes as well as a  
13 reference for future investigations if subsequent reports of child  
14 abuse or neglect are made involving the same victim or subject of a  
15 report of child abuse or neglect.

16 Sec. 271. Section 28-719, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~28-719~~ Upon complying with identification requirements  
19 established by regulation of the department, or when ordered by  
20 a court of competent jurisdiction, any person legally authorized  
21 by section ~~28-722, 28-726, or 28-727~~ 275, 279, or 280 of this  
22 act to have access to records relating to child abuse and neglect  
23 information in the Child Protection Registry may request and shall  
24 be immediately provided the information requested in accordance  
25 with the requirement of ~~the Child Protection Act.~~ sections 64 to

1 69 and 269 to 285 of this act. Such information shall not include  
2 the name and address of the person making the report of child  
3 abuse or neglect. The names and other identifying data and the  
4 dates and the circumstances of any persons requesting or receiving  
5 information from the ~~central register of child protection cases~~  
6 ~~maintained pursuant to section 28-718 shall be entered in such~~  
7 ~~register record.~~ Child Protection Registry shall be entered in the  
8 registry.

9           Sec. 272. Section 28-720, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~28-720~~ All cases entered into the ~~central register of~~  
12 ~~child protection cases maintained pursuant to section 28-718~~ Child  
13 Protection Registry shall be classified as one of the following:

14           (1) Court substantiated, if a court of competent  
15 jurisdiction has entered a judgment of guilty against the subject  
16 of the report of child abuse or neglect upon a criminal complaint,  
17 indictment, or information or there has been an adjudication of  
18 jurisdiction of a juvenile court over the child ~~under subdivision~~  
19 ~~(3)(a) of section 43-247~~ as a child in need of state protection  
20 which relates or pertains to the report of child abuse or neglect;

21           (2) Court pending, if a criminal complaint, indictment,  
22 or information or a juvenile petition ~~under subdivision (3)(a) of~~  
23 ~~section 43-247,~~ alleging a child to be a child in need of state  
24 protection, which relates or pertains to the subject of the report  
25 of abuse or neglect, has been filed and is pending in a court of

1 competent jurisdiction; or

2 (3) Inconclusive, if the department's determination of  
3 child abuse or neglect against the subject of the report of child  
4 abuse or neglect was made, by a preponderance of the evidence,  
5 based upon an investigation pursuant to section ~~28-713~~, 65 of this  
6 act.

7 Sec. 273. Section 28-720.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~28-720.01~~ All reports of child abuse or neglect which  
10 are not under subdivision (1), (2), or (3) of section ~~28-720~~ 270  
11 of this act shall be considered unfounded and shall be maintained  
12 only in the tracking system of child protection cases ~~pursuant to~~  
13 ~~section 28-715~~ and not in the central register of child protection  
14 cases maintained pursuant to section ~~28-718~~. Child Protection  
15 Registry.

16 Sec. 274. Section 28-721, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~28-721~~ At any time, the department may amend, expunge,  
19 or remove from the central register of child protection cases  
20 maintained pursuant to section ~~28-718~~ any record Child Protection  
21 Registry any information upon good cause shown and upon notice to  
22 the subject of the report of child abuse or neglect.

23 Sec. 275. Section 28-722, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 ~~28-722~~ Upon request, a subject of the report of child

1 abuse or neglect or, if such subject is a minor or otherwise  
2 legally incompetent, the guardian or guardian ad litem of the  
3 subject, shall be entitled to receive a copy of all information  
4 contained in the ~~central register of child protection cases~~  
5 ~~maintained pursuant to section 28-718~~ Child Protection Registry  
6 pertaining to his or her case. The department shall not release  
7 data that would be harmful or detrimental or that would identify or  
8 locate a person who, in good faith, made a report of child abuse or  
9 neglect or cooperated in a subsequent investigation unless ordered  
10 to do so by a court of competent jurisdiction.

11           Sec. 276. Section 28-723, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           ~~28-723~~ At any time subsequent to the completion of the  
14 ~~department's~~ child protection investigation under section 65 of  
15 this act, the subject of the report of child abuse or neglect may  
16 request the department to amend, expunge identifying information  
17 from, or remove the record of the report from the ~~central register~~  
18 ~~of child protection cases maintained pursuant to section 28-718.~~  
19 Child Protection Registry. If the department refuses to do so or  
20 does not act within thirty days, the subject of the report of child  
21 abuse or neglect shall have the right to a fair hearing within  
22 the department to determine whether the record of the report of  
23 child abuse or neglect should be amended, expunged, or removed on  
24 the grounds that it is inaccurate or that it is being maintained  
25 in a manner inconsistent with ~~the Child Protection Act.~~ sections

1 64 to 69 and 269 to 285 of this act. Such fair hearing shall  
2 be held within a reasonable time after the subject's request and  
3 at a reasonable place and hour. In such hearings, the burden of  
4 proving the accuracy and consistency of the record shall be on  
5 the department. A juvenile court finding ~~of child abuse or child~~  
6 ~~neglect~~ that the child is a child in need of state protection  
7 shall be presumptive evidence that the report was not unfounded.  
8 The hearing shall be conducted by the head of the department or his  
9 or her designated agent, who ~~is hereby authorized and empowered to~~  
10 may order the amendment, expunction, or removal of the record to  
11 make it accurate or consistent with the requirements of ~~the act.~~  
12 such sections. The decision shall be made in writing, at the close  
13 of the hearing, or within thirty days thereof, and shall state the  
14 reasons upon which it is based. Decisions of the department may be  
15 appealed under ~~the provisions of~~ the Administrative Procedure Act.

16           Sec. 277. Section 28-724, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           ~~28-724~~ Written notice of any amendment, expunction,  
19 or removal of any record in the ~~central register of child~~  
20 ~~protection cases maintained pursuant to section 28-718~~ Child  
21 Protection Registry shall be served upon the subject of the  
22 report, ~~of child abuse or neglect.~~ The department shall inform any  
23 other individuals or agencies which received such record of any  
24 amendment, expunction, or removal of such record.

25           Sec. 278. Section 28-725, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~28-725~~ All information of the department concerning  
3 reports of child abuse or neglect of noninstitutional children,  
4 noninstitutional cases of a child alleged to be a child in need  
5 of state protection, including information in the tracking system  
6 of child protection cases maintained pursuant to section 28-715  
7 or records in the central register of child protection cases  
8 maintained pursuant to section 28-718, Child Protection Registry,  
9 and all information of the department generated as a result of  
10 such reports or records, shall be confidential and shall not be  
11 disclosed except as specifically authorized by the Child Protection  
12 Act and section 81-3126 or sections 64 to 69 or sections 269  
13 to 285 of this act or other applicable law. The subject of the  
14 report of child abuse or neglect may authorize any individual or  
15 organization to receive the following information from the central  
16 register of child protection cases maintained pursuant to section  
17 ~~28-718~~ Child Protection Registry which relates or pertains to him  
18 or her: (1) The date of the alleged child abuse or neglect; and  
19 (2) the classification of the case pursuant to section 272 of this  
20 act. ~~28-720. Permitting, assisting, or encouraging the unauthorized~~  
21 ~~release of any information contained in such reports or records~~  
22 ~~shall be a Class V misdemeanor.~~

23           Sec. 279. Section 28-726, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~28-726~~ Except as provided in this section and sections

1 ~~28-722 and section 81-3126 and section 275 of this act~~, no person,  
2 official, or agency shall have access to information in the  
3 tracking system of child protection cases ~~maintained pursuant to~~  
4 ~~section 28-715~~ or in records in the central register of child  
5 ~~protection cases maintained pursuant to section 28-718~~ the Child  
6 Protection Registry unless in furtherance of purposes directly  
7 connected with the administration of ~~the Child Protection Act.~~  
8 sections 64 to 69 or sections 269 to 285 of this act. Such persons,  
9 officials, and agencies having access to such information shall  
10 include, but not be limited to:

11 (1) A law enforcement agency investigating a report of a  
12 child known or suspected child abuse or neglect, to be a child in  
13 need of state protection;

14 (2) A county attorney in preparation of a ~~child abuse~~  
15 ~~or neglect petition or termination of parental rights petition,~~ a  
16 petition to find a child to be a child in need of state protection;

17 (3) A physician who has before him or her a child whom he  
18 or she reasonably suspects may be ~~abused or neglected,~~ a child in  
19 need of state protection;

20 (4) An agency having the legal responsibility or  
21 authorization to care for, treat, or supervise an ~~abused or~~  
22 ~~neglected child or a parent,~~ a guardian, or other person  
23 responsible for the ~~abused or neglected child's~~ welfare who is the  
24 ~~subject of the report of child abuse or neglect,~~ a child in need of  
25 state protection or such child's responsible adult;

1           (5) Any person engaged in bona fide research or auditing.  
2 No information identifying the subjects of the report of child  
3 abuse or neglect shall be made available to the researcher or  
4 auditor;

5           (6) The State Foster Care Review Board when the  
6 information relates to a child in a foster care placement as  
7 defined in section 43-1301. The information provided to the state  
8 board shall not include the name or identity of any person making  
9 a report ~~of suspected child abuse or neglect,~~ under section 64 of  
10 this act;

11           (7) The designated protection and advocacy system  
12 authorized pursuant to the Developmental Disabilities Assistance  
13 and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act  
14 existed on January 1, 2005, and the Protection and Advocacy for  
15 Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed  
16 on September 1, 2001, acting upon a complaint received from or  
17 on behalf of a person with developmental disabilities or mental  
18 illness;

19           (8) The person or persons having custody of ~~the abused or~~  
20 ~~neglected child~~ a child in need of state protection in situations  
21 of alleged out-of-home child abuse or neglect; and

22           (9) For purposes of licensing providers of child care  
23 programs, ~~the Department of Health and Human Services.~~ department.

24           Sec. 280. Section 28-727, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~28-727~~ Upon request, a physician or the person in charge  
2 of an institution, school, facility, or agency making a legally  
3 mandated report of child abuse or neglect pursuant to section  
4 ~~28-711~~ under section 64 of this act shall receive a summary of the  
5 findings of and actions taken by the department in response to his  
6 or her report. The amount of detail such summary contains shall  
7 depend on the source of the report of child abuse or neglect and  
8 shall be established by regulations of the department.

9           Sec. 281. Section 28-728, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~28-728~~ (1) The Legislature finds that child abuse  
12 and neglect are community problems requiring a cooperative  
13 complementary response by law enforcement, child advocacy centers,  
14 prosecutors, ~~the Department of Health and Human Services,~~  
15 department, and other agencies or entities designed to protect  
16 children. It is the intent of the Legislature to create a child  
17 abuse and neglect investigation team in each county or contiguous  
18 group of counties and to create a child abuse and neglect treatment  
19 team in each county or contiguous group of counties.

20           (2) Each county or contiguous group of counties will be  
21 assigned by the ~~Department of Health and Human Services~~ department  
22 to a child advocacy center. The purpose of a child advocacy  
23 center is to provide a child-focused response to support the  
24 physical, emotional, and psychological needs of children who are  
25 victims of abuse or neglect. Each child advocacy center shall

1 meet accreditation criteria set forth by the National Children's  
2 Alliance. Nothing in this section shall prevent a child from  
3 receiving treatment or other services at a child advocacy center  
4 which has received or is in the process of receiving accreditation.

5 (3) Each county attorney or the county attorney  
6 representing a contiguous group of counties is responsible  
7 for convening the child abuse and neglect investigation team  
8 and ensuring that protocols are established and implemented.  
9 A representative of the child advocacy center assigned to the  
10 team shall assist the county attorney in facilitating case  
11 review, developing and updating protocols, and arranging training  
12 opportunities for the team. Each team must have protocols which, at  
13 a minimum, shall include procedures for:

14 (a) Conducting joint investigations of child abuse and  
15 other child abuse and neglect matters which the team deems  
16 necessary;

17 (b) Ensuring that a law enforcement agency will  
18 participate in the investigation;

19 (c) Conducting joint investigations of other child abuse  
20 and neglect matters which the team deems necessary;

21 (d) Arranging for a videotaped forensic interview at  
22 a child advocacy center for children sixteen years of age or  
23 younger who are alleging sexual abuse or serious physical abuse or  
24 neglect or who have witnessed a violent crime, been removed from a  
25 clandestine drug lab, or been recovered from a kidnapping;

1                   (e) Reducing the risk of harm to child abuse and neglect  
2 victims;

3                   (f) Ensuring that the child is in safe surroundings,  
4 including removing the perpetrator when necessary;

5                   (g) Sharing of case information;

6                   (h) How and when the team will meet; and

7                   (i) Responding to drug-endangered children.

8                   (4) Each county attorney or the county attorney  
9 representing a contiguous group of counties is responsible for  
10 convening the child abuse and neglect treatment team and ensuring  
11 that protocols are established and implemented. A representative  
12 of the child advocacy center appointed to the team shall assist  
13 the county attorney in facilitating case review, developing and  
14 updating protocols, and arranging training opportunities for the  
15 team. Each team must have protocols which, at a minimum, shall  
16 include procedures for:

17                   (a) Case coordination and assistance, including the  
18 location of services available within the area;

19                   (b) Case staffings and the coordination, development,  
20 implementation, and monitoring of treatment plans;

21                   (c) Reducing the risk of harm to child abuse and neglect  
22 victims;

23                   (d) Assisting those child abuse and neglect victims who  
24 are abused and neglected by perpetrators who do not reside in their  
25 homes;

1 (e) How and when the team will meet; and

2 (f) Working with multiproblem delinquent youth.

3 Sec. 282. Section 28-729, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 ~~28-729~~ (1) A child abuse and neglect investigation team  
6 shall include a representative from the county attorney's office,  
7 a child protective services representative from the ~~Department of~~  
8 ~~Health and Human Services,~~ department, a representative from each  
9 law enforcement agency which has jurisdiction within the county  
10 or contiguous group of counties, a representative from the child  
11 advocacy center, and representatives from such other agencies as  
12 determined by the team.

13 (2) A child abuse and neglect treatment team shall  
14 include a child protective services representative from the  
15 ~~Department of Health and Human Services,~~ department, a juvenile  
16 probation officer, a representative from the mental health  
17 profession or medical profession actively practicing within the  
18 county or contiguous group of counties, a representative from  
19 each school district which provides services within the county  
20 or contiguous group of counties, a representative from the child  
21 advocacy center, and representatives from such other agencies as  
22 determined by the team. For purposes of this subsection, more than  
23 one school district may be represented by the same individual.

24 (3) The teams established pursuant to this section and  
25 section ~~28-728~~ 281 of this act shall be encouraged to expand their

1 membership to include the various relevant disciplines which exist  
2 within the county or contiguous group of counties. The additional  
3 members shall have the requisite experience necessary as determined  
4 by the core members of the teams. Consistent with requirements set  
5 out by the teams, all members of both teams shall attend child  
6 abuse and neglect training on an annual basis. Such training shall  
7 be no less than eight hours annually and consist of the following  
8 components:

9 (a) Child abuse and neglect investigation procedures as  
10 provided by law enforcement standards;

11 (b) Legal requirements and procedures for successful  
12 prosecution of child abuse and neglect cases;

13 (c) Roles and responsibilities of child protective  
14 services, law enforcement agencies, county attorneys, the Attorney  
15 General, and judges;

16 (d) Characteristics of child development and family  
17 dynamics;

18 (e) Recognition of various types of abuse and neglect;

19 (f) Duty of public and private individuals and agencies,  
20 including schools, governmental agencies, physicians, and child  
21 advocates, to report suspected or known child abuse;

22 (g) Multidisciplinary approaches to providing services to  
23 children; and

24 (h) Weaknesses in the current child protection system.

25 (4) The representative of the county attorney shall

1 report the name and address of each team member to the Nebraska  
2 Commission on Law Enforcement and Criminal Justice. If more  
3 than one county is part of a team, the representative of the  
4 participating county attorneys shall jointly and cooperatively  
5 report their results to the commission.

6 (5) Each team shall meet at a location agreed to by the  
7 team. The number of meetings of the team shall be secondary to the  
8 caseload of the team, but each team shall meet at least quarterly.  
9 The representative from the child advocacy center assigned to the  
10 team shall annually report to the commission the number of times  
11 the team met within a calendar year and any changes in team  
12 membership. Each team shall select a chairperson annually in the  
13 first quarter of each calendar year. Each team may substitute a  
14 telephone conference call among team members in lieu of meeting in  
15 person. If a team fails to convene, the commission shall notify  
16 the Child Protection Division of the office of the Attorney General  
17 and the division shall appoint the team members or convene the  
18 team pursuant to sections ~~28-728 to 28-730~~, 281 to 283 of this  
19 act. Nothing in this section shall relieve the county attorney from  
20 ensuring that the teams meet as required by this section.

21 Sec. 283. Section 28-730, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~28-730~~ (1) Notwithstanding any other provision of law  
24 regarding the confidentiality of records and when not prohibited  
25 by the federal Privacy Act of 1974, as amended, juvenile court

1 records and any other pertinent information that may be in the  
2 possession of school districts, law enforcement agencies, county  
3 attorneys, the Attorney General, the ~~Department of Health and~~  
4 ~~Human Services,~~ department, child advocacy centers, and other team  
5 members concerning a child whose case is being investigated or  
6 discussed by a child abuse and neglect investigation team or a  
7 child abuse and neglect treatment team shall be shared with the  
8 respective team members as part of the discussion and coordination  
9 of efforts for investigative or treatment purposes. Upon request  
10 by a team, any individual or agency with information or records  
11 concerning a particular child shall share all relevant information  
12 or records with the team as determined by the team pursuant to  
13 the appropriate team protocol. Only a team which has accepted the  
14 child's case for investigation or treatment shall be entitled to  
15 access to such information.

16 (2) All information acquired by a team member or  
17 other individuals pursuant to protocols developed by the team  
18 shall be confidential and shall not be disclosed except to the  
19 extent necessary to perform case consultations, to carry out a  
20 treatment plan or recommendations, or for use in a legal proceeding  
21 instituted by a county attorney or the Child Protection Division  
22 of the office of the Attorney General. Information, documents, or  
23 records otherwise available from the original sources shall not be  
24 immune from discovery or use in any civil or criminal action merely  
25 because the information, documents, or records were presented

1 during a case consultation if the testimony sought is otherwise  
2 permissible and discoverable. Any person who presented information  
3 before the team or who is a team member shall not be prevented from  
4 testifying as to matters within the person's knowledge.

5 (3) Each team may review any case arising under the  
6 Nebraska Criminal Code when a child is a victim or any case  
7 arising under the Nebraska Juvenile Code. A member of a team who  
8 participates in good faith in team discussion or any person who  
9 in good faith cooperates with a team by providing information  
10 or records about a child whose case has been accepted for  
11 investigation or treatment by a team shall be immune from any  
12 civil or criminal liability. The provisions of this subsection or  
13 any other section granting or allowing the grant of immunity from  
14 liability shall not be extended to any person alleged to have  
15 committed an act of child abuse or neglect.

16 (4) A member of a team who publicly discloses information  
17 regarding a case consultation in a manner not consistent with  
18 sections ~~28-728 to 28-730~~ 281 to 283 of this act shall be guilty of  
19 a Class III misdemeanor.

20 Sec. 284. Section 28-731, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 ~~28-731~~ The teams established by sections ~~28-728 to 28-730~~  
23 281 to 283 of this act shall not be considered a public body for  
24 purposes of the Open Meetings Act.

25 Sec. 285. Section 28-732, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~28-732~~ If a county or contiguous group of counties does  
3 not establish the teams required by sections ~~28-728 to 28-730~~, 279  
4 to 281 of this act, it shall establish a program of child abuse  
5 and neglect investigation and treatment services to accomplish the  
6 goals of section ~~28-728~~, 279 of this act. Such program shall  
7 be submitted to the Nebraska Commission on Law Enforcement and  
8 Criminal Justice, prior to July 15, 1993, to ensure that such  
9 program meets the goals of such section, ~~28-728~~. If the commission  
10 does not recognize such program as meeting the goals of such  
11 section, the commission shall make recommendations for changes  
12 to the program and establish an appropriate time period for the  
13 changes to be adopted. In the event an agreement cannot be reached  
14 between the commission and the county or contiguous group of  
15 counties proposing the alternative program, sections ~~28-728 to~~  
16 ~~28-730~~ 281 to 283 of this act shall be met with implementation to  
17 begin within one year.

18 Sec. 286. Section 43-2922, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-2922 For purposes of the Parenting Act:

21 (1) Appropriate means reflective of the developmental  
22 abilities of the child taking into account any cultural traditions  
23 that are within the boundaries of state and federal law;

24 (2) Approved mediation center means a mediation center  
25 approved by the Office of Dispute Resolution;

1                   (3) Best interests of the child means the determination  
2 made taking into account the requirements stated in section  
3 43-2923;

4                   (4) Child means a minor under nineteen years of age;

5                   (5) Child abuse or neglect ~~has the same meaning as in~~  
6 section 28-710, includes an abandoned child as defined in section 4  
7 of this act, an abused child as defined in section 5 of this act,  
8 or a neglected child as defined in section 38 of this act;

9                   (6) Court conciliation program means a court-based  
10 conciliation program under the Conciliation Court Law;

11                   (7) Custody includes legal custody and physical custody;

12                   (8) Domestic intimate partner abuse means an act of  
13 abuse as defined in section 42-903 and a pattern or history  
14 of abuse evidenced by one or more of the following acts:  
15 Physical or sexual assault, threats of physical assault or sexual  
16 assault, stalking, harassment, mental cruelty, emotional abuse,  
17 intimidation, isolation, economic abuse, or coercion against any  
18 current or past intimate partner, or an abuser using a child to  
19 establish or maintain power and control over any current or past  
20 intimate partner, and, when they contribute to the coercion or  
21 intimidation of an intimate partner, acts of child abuse or neglect  
22 or threats of such acts, cruel mistreatment or cruel neglect of  
23 an animal as defined in section 28-1008, or threats of such acts,  
24 and other acts of abuse, assault, or harassment, or threats of  
25 such acts against other family or household members. A finding by

1 a child protection agency shall not be considered res judicata or  
2 collateral estoppel regarding an act of child abuse or neglect or  
3 a threat of such act, and shall not be considered by the court  
4 unless each parent is afforded the opportunity to challenge any  
5 such determination;

6 (9) Economic abuse means causing or attempting to cause  
7 an individual to be financially dependent by maintaining total  
8 control over the individual's financial resources, including, but  
9 not limited to, withholding access to money or credit cards,  
10 forbidding attendance at school or employment, stealing from or  
11 defrauding of money or assets, exploiting the victim's resources  
12 for personal gain of the abuser, or withholding physical resources  
13 such as food, clothing, necessary medications, or shelter;

14 (10) Emotional abuse means a pattern of acts, threats  
15 of acts, or coercive tactics, including, but not limited to,  
16 threatening or intimidating to gain compliance, destruction of  
17 the victim's personal property or threats to do so, violence to  
18 an animal or object in the presence of the victim as a way to  
19 instill fear, yelling, screaming, name-calling, shaming, mocking,  
20 or criticizing the victim, possessiveness, or isolation from  
21 friends and family. Emotional abuse can be verbal or nonverbal;

22 (11) Joint legal custody means mutual authority and  
23 responsibility of the parents for making mutual fundamental  
24 decisions regarding the child's welfare, including choices  
25 regarding education and health;

1           (12) Joint physical custody means mutual authority and  
2 responsibility of the parents regarding the child's place of  
3 residence and the exertion of continuous blocks of parenting time  
4 by both parents over the child for significant periods of time;

5           (13) Legal custody means the authority and responsibility  
6 for making fundamental decisions regarding the child's welfare,  
7 including choices regarding education and health;

8           (14) Mediation means a method of nonjudicial intervention  
9 in which a trained, neutral third-party mediator, who has no  
10 decisionmaking authority, provides a structured process in which  
11 individuals and families in conflict work through parenting and  
12 other related family issues with the goal of achieving a voluntary,  
13 mutually agreeable parenting plan or related resolution;

14           (15) Mediator means a mediator meeting the qualifications  
15 of section 43-2938 and acting in accordance with the Parenting Act;

16           (16) Office of Dispute Resolution means the office  
17 established under section 25-2904;

18           (17) Parenting functions means those aspects of the  
19 relationship in which a parent or person in the parenting role  
20 makes fundamental decisions and performs fundamental functions  
21 necessary for the care and development of a child. Parenting  
22 functions include, but are not limited to:

23           (a) Maintaining a safe, stable, consistent, and nurturing  
24 relationship with the child;

25           (b) Attending to the ongoing developmental needs of the

1 child, including feeding, clothing, physical care and grooming,  
2 health and medical needs, emotional stability, supervision, and  
3 appropriate conflict resolution skills and engaging in other  
4 activities appropriate to the healthy development of the child  
5 within the social and economic circumstances of the family;

6 (c) Attending to adequate education for the child,  
7 including remedial or other special education essential to the  
8 best interests of the child;

9 (d) Assisting the child in maintaining a safe, positive,  
10 and appropriate relationship with each parent and other family  
11 members, including establishing and maintaining the authority and  
12 responsibilities of each party with respect to the child and  
13 honoring the parenting plan duties and responsibilities;

14 (e) Minimizing the child's exposure to harmful parental  
15 conflict;

16 (f) Assisting the child in developing skills to maintain  
17 safe, positive, and appropriate interpersonal relationships; and

18 (g) Exercising appropriate support for social, academic,  
19 athletic, or other special interests and abilities of the child  
20 within the social and economic circumstances of the family;

21 (18) Parenting plan means a plan for parenting the child  
22 that takes into account parenting functions;

23 (19) Parenting time, visitation, or other access means  
24 communication or time spent between the child and parent, the child  
25 and a court-appointed guardian, or the child and another family

1 member or members;

2 (20) Physical custody means authority and responsibility  
3 regarding the child's place of residence and the exertion of  
4 continuous parenting time for significant periods of time;

5 (21) Provisions for safety means a plan developed to  
6 reduce risks of harm to children and adults who are victims  
7 of child abuse or neglect, domestic intimate partner abuse, or  
8 unresolved parental conflict;

9 (22) Remediation process means the method established in  
10 the parenting plan which maintains the best interests of the child  
11 and provides a means to identify, discuss, and attempt to resolve  
12 future circumstantial changes or conflicts regarding the parenting  
13 functions and which minimizes repeated litigation and utilizes  
14 judicial intervention as a last resort;

15 (23) Specialized alternative dispute resolution means a  
16 method of nonjudicial intervention in high conflict or domestic  
17 intimate partner abuse cases in which an approved specialized  
18 mediator facilitates voluntary mutual development of and agreement  
19 to a structured parenting plan, provisions for safety, a transition  
20 plan, or other related resolution between the parties;

21 (24) Transition plan means a plan developed to reduce  
22 exposure of the child and the adult to ongoing unresolved parental  
23 conflict during parenting time, visitation, or other access for the  
24 exercise of parental functions; and

25 (25) Unresolved parental conflict means persistent

1 conflict in which parents are unable to resolve disputes about  
2 parenting functions which has a potentially harmful impact on a  
3 child.

4 Sec. 287. Section 43-2932, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 43-2932 (1) When the court is required to develop a  
7 parenting plan:

8 (a) If a preponderance of the evidence demonstrates, the  
9 court shall determine whether a parent who would otherwise be  
10 allocated custody, parenting time, visitation, or other access to  
11 the child under a parenting plan:

12 (i) Has committed child abuse or neglect;

13 (ii) Has committed child abandonment under section  
14 28-705;

15 (iii) Has committed domestic intimate partner abuse; or

16 (iv) Has interfered persistently with the other parent's  
17 access to the child, except in the case of actions taken for the  
18 purpose of protecting the safety of the child or the interfering  
19 parent or another family member, pending adjudication of the facts  
20 underlying that belief; and

21 (b) If a parent is found to have engaged in any activity  
22 specified by subdivision (1)(a) of this section, limits shall be  
23 imposed that are reasonably calculated to protect the child or  
24 child's parent from harm. The limitations may include, but are not  
25 limited to:

- 1           (i) An adjustment of the custody of the child, including  
2 the allocation of sole legal custody or physical custody to one  
3 parent;
- 4           (ii) Supervision of the parenting time, visitation, or  
5 other access between a parent and the child;
- 6           (iii) Exchange of the child between parents through an  
7 intermediary or in a protected setting;
- 8           (iv) Restraints on the parent from communication with or  
9 proximity to the other parent or the child;
- 10          (v) A requirement that the parent abstain from possession  
11 or consumption of alcohol or nonprescribed drugs while exercising  
12 custodial responsibility and in a prescribed period immediately  
13 preceding such exercise;
- 14          (vi) Denial of overnight physical custodial parenting  
15 time;
- 16          (vii) Restrictions on the presence of specific persons  
17 while the parent is with the child;
- 18          (viii) A requirement that the parent post a bond to  
19 secure return of the child following a period in which the parent  
20 is exercising physical custodial parenting time or to secure other  
21 performance required by the court; or
- 22          (ix) Any other constraints or conditions deemed necessary  
23 to provide for the safety of the child, a child's parent, or any  
24 person whose safety immediately affects the child's welfare.
- 25          (2) A court determination under this section shall not

1 be considered a report for purposes of inclusion in the ~~central~~  
2 ~~register of child protection cases pursuant to the Child Protection~~  
3 ~~Act.~~ Child Protection Registry created in section 270 of this act.

4 (3) If a parent is found to have engaged in any activity  
5 specified in subsection (1) of this section, the court shall not  
6 order legal or physical custody to be given to that parent without  
7 making special written findings that the child and other parent  
8 can be adequately protected from harm by such limits as it may  
9 impose under such subsection. The parent found to have engaged in  
10 the behavior specified in subsection (1) of this section has the  
11 burden of proving that legal or physical custody, parenting time,  
12 visitation, or other access to that parent will not endanger the  
13 child or the other parent.

14 Sec. 288. Section 43-2939, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 43-2939 (1) A Parenting Act mediator, prior to meeting  
17 with the parties in an initial mediation session, shall provide an  
18 individual initial screening session with each party to assess the  
19 presence of child abuse or neglect, unresolved parental conflict,  
20 domestic intimate partner abuse, other forms of intimidation or  
21 coercion, or a party's inability to negotiate freely and make  
22 informed decisions. If any of these conditions exist, the mediator  
23 shall not proceed with the mediation session but shall proceed  
24 with a specialized alternative dispute resolution process that  
25 addresses safety measures for the parties, if the mediator is

1 on the approved specialized list of an approved mediation center  
2 or court conciliation program, or shall refer the parties to a  
3 mediator who is so qualified. When public records such as current  
4 or expired protection orders, criminal domestic violence cases, and  
5 child abuse or neglect proceedings are provided to a mediator, such  
6 records shall be considered during the individual initial screening  
7 session to determine appropriate dispute resolution methods. The  
8 mediator has the duty to determine whether to proceed in joint  
9 session, individual sessions, or caucus meetings with the parties  
10 in order to address safety and freedom to negotiate. In any  
11 mediation or specialized alternative dispute resolution, a mediator  
12 has the ongoing duty to assess appropriateness of the process and  
13 safety of the process upon the parties.

14 (2) No mediator who represents or has represented one  
15 or both of the parties or has had either of the parties as a  
16 client as an attorney or a counselor shall mediate the case, unless  
17 such services have been provided to both participants and mediation  
18 shall not proceed in such cases unless the prior relationship has  
19 been disclosed, the role of the mediator has been made distinct  
20 from the earlier relationship, and the participants have been given  
21 the opportunity to fully choose to proceed. All other potential  
22 conflicts of interest shall be disclosed and discussed before the  
23 parties decide whether to proceed with that mediator.

24 (3) No mediator who is also a licensed attorney may,  
25 after completion of the mediation process, represent either party

1 in the role of attorney in the same matter through subsequent legal  
2 proceedings.

3 (4) The mediator shall facilitate the mediation process.  
4 Prior to the commencement of mediation, the mediator shall notify  
5 the parties that, if the mediator has reasonable cause to believe  
6 that a child has been subjected to child abuse or neglect or  
7 if the mediator observes a child being subjected to conditions  
8 or circumstances which reasonably would result in child abuse or  
9 neglect, the mediator is obligated under section ~~28-711~~ 64 of this  
10 act to report such information to the authorized child abuse and  
11 neglect reporting agency and shall report such information unless  
12 the information has been previously reported. The mediator shall  
13 have access to court files for purposes of mediation under the  
14 Parenting Act. The mediator shall be impartial and shall use his  
15 or her best efforts to effect an agreement or parenting plan  
16 as required under the act. The mediator may interview the child  
17 if, in the mediator's opinion, such an interview is necessary or  
18 appropriate. The parties shall not bring the child to any sessions  
19 with the mediator unless specific arrangements have been made with  
20 the mediator in advance of the session. The mediator shall assist  
21 the parties in assessing their needs and the best interests of  
22 the child involved in the proceeding and may include other persons  
23 in the mediation process as necessary or appropriate. The mediator  
24 shall advise the parties that they should consult with an attorney.

25 (5) The mediator may terminate mediation if one or more

1 of the following conditions exist:

2 (a) There is no reasonable possibility that mediation  
3 will promote the development of an effective parenting plan;

4 (b) Allegations are made of direct physical or  
5 significant emotional harm to a party or to a child that have not  
6 been heard and ruled upon by the court; or

7 (c) Mediation will otherwise fail to serve the best  
8 interests of the child.

9 (6) Until July 1, 2010, either party may terminate  
10 mediation at any point in the process. On and after July 1, 2010,  
11 a party may not terminate mediation until after an individual  
12 initial screening session and one mediation or specialized  
13 alternative dispute resolution session are held. The session after  
14 the individual initial screening session shall be an individual  
15 specialized alternative dispute resolution session if the screening  
16 indicated the existence of any condition specified in subsection  
17 (1) of this section.

18 Sec. 289. Section 43-3502, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-3502 For purposes of the Nebraska County Juvenile  
21 Services Plan Act, the definitions shall be the same as those in  
22 sections ~~43-245~~ 4 to 49 of this act and 43-403.

23 Sec. 290. Section 43-3709, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 43-3709 (1) The minimum qualifications for any

1 prospective court appointed special advocate volunteer are that he  
2 or she shall:

3 (a) Be at least twenty-one years of age or older and have  
4 demonstrated an interest in children and their welfare;

5 (b) Be willing to commit to the court for a minimum of  
6 one year of service to a child;

7 (c) Complete an application, including providing  
8 background information required pursuant to subsection (2) of this  
9 section;

10 (d) Participate in a screening interview; and

11 (e) Participate in the training required pursuant to  
12 section 43-3708.

13 (2) As required background screening, the program  
14 director shall obtain the following information regarding a  
15 volunteer applicant:

16 (a) A check of the applicant's criminal history record  
17 information maintained by the Identification Division of the  
18 Federal Bureau of Investigation through the Nebraska State Patrol;

19 (b) A check of his or her record with the ~~central~~  
20 ~~register of child protection cases maintained under section 28-718,~~  
21 Child Protection Registry created in section 270 of this act;

22 (c) A check of his or her driving record; and

23 (d) At least three references who will attest to the  
24 applicant's character, judgment, and suitability for the position  
25 of a court appointed special advocate volunteer.

1           (3) If the applicant has lived in Nebraska for less  
2 than twelve months, the program director shall obtain the records  
3 required in subdivisions (2)(a) through (2)(c) of this section from  
4 all other jurisdictions in which the applicant has lived during the  
5 preceding year.

6           Sec. 291. Section 43-3710, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           43-3710 (1) A judge may appoint a court appointed special  
9 advocate volunteer in any proceeding brought pursuant to ~~section~~  
10 ~~43-247 or 43-292~~ the Nebraska Juvenile Code when, in the opinion of  
11 the judge, a child who may be affected by such proceeding requires  
12 services that a volunteer can provide and the court finds that the  
13 appointment is in the best interests of the child.

14           (2) A volunteer shall be appointed pursuant to a court  
15 order. The court order shall specify the volunteer as a friend  
16 of the court acting on the authority of the judge. The volunteer  
17 acting as a friend of the court may offer as evidence a written  
18 report with recommendations consistent with the best interests of  
19 the child, subject to all pertinent objections.

20           (3) A memorandum of understanding between a court and a  
21 court appointed special advocate program is required in any county  
22 where a program is established and shall set forth the roles and  
23 responsibilities of the court appointed special advocate volunteer.

24           (4) The volunteer's appointment shall conclude:

25           (a) When the court's jurisdiction over the child

1 terminates;

2 (b) Upon discharge by the court on its own motion;

3 (c) With the approval of the court, at the request of the  
4 program director of the court appointed special advocate program to  
5 which the volunteer is assigned; or

6 (d) Upon successful motion of a party to the action  
7 for the removal of the volunteer because the party believes  
8 the volunteer has acted inappropriately, is unqualified, or is  
9 unsuitable for the appointment.

10 Sec. 292. Section 71-448, Revised Statutes Cumulative  
11 Supplement, 2008, is amended to read:

12 71-448 The Division of Public Health of the Department of  
13 Health and Human Services may take disciplinary action against a  
14 license issued under the Health Care Facility Licensure Act on any  
15 of the following grounds:

16 (1) Violation of any of the provisions of the  
17 Assisted-Living Facility Act, the Health Care Facility Licensure  
18 Act, the Nebraska Nursing Home Act, or the rules and regulations  
19 adopted and promulgated under such acts;

20 (2) Committing or permitting, aiding, or abetting the  
21 commission of any unlawful act;

22 (3) Conduct or practices detrimental to the health or  
23 safety of a person residing in, served by, or employed at the  
24 health care facility or health care service;

25 (4) A report from an accreditation body or public

1 agency sanctioning, modifying, terminating, or withdrawing the  
2 accreditation or certification of the health care facility or  
3 health care service;

4 (5) Failure to allow an agent or employee of the  
5 Department of Health and Human Services access to the health care  
6 facility or health care service for the purposes of inspection,  
7 investigation, or other information collection activities necessary  
8 to carry out the duties of the Department of Health and Human  
9 Services;

10 (6) Discrimination or retaliation against a person  
11 residing in, served by, or employed at the health care facility or  
12 health care service who has submitted a complaint or information to  
13 the Department of Health and Human Services;

14 (7) Discrimination or retaliation against a person  
15 residing in, served by, or employed at the health care facility or  
16 health care service who has presented a grievance or information to  
17 the office of the state long-term care ombudsman;

18 (8) Failure to allow a state long-term care ombudsman or  
19 an ombudsman advocate access to the health care facility or health  
20 care service for the purposes of investigation necessary to carry  
21 out the duties of the office of the state long-term care ombudsman  
22 as specified in the rules and regulations adopted and promulgated  
23 by the Department of Health and Human Services;

24 (9) Violation of the Emergency Box Drug Act;

25 (10) Failure to file a report required by section

1 38-1,127;

2 (11) Violation of the Medication Aide Act;

3 (12) Failure to file a report of suspected abuse or  
4 neglect as required by ~~sections~~ section 28-372 and ~~28-711~~; section  
5 64 of this act; or

6 (13) Violation of the Automated Medication Systems Act.

7 Sec. 293. Section 71-1919, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9 71-1919 The department may deny the issuance of or take  
10 disciplinary action against a license issued under the Child Care  
11 Licensing Act on any of the following grounds:

12 (1) Failure to meet or violation of any of the  
13 requirements of the Child Care Licensing Act or the rules and  
14 regulations adopted and promulgated under the act;

15 (2) Violation of an order of the department under the  
16 act;

17 (3) Conviction of, or substantial evidence of committing  
18 or permitting, aiding, or abetting another to commit, any unlawful  
19 act, including, but not limited to, unlawful acts committed by an  
20 applicant or licensee under the act, household members who reside  
21 at the place where the program is provided, or employees of the  
22 applicant or licensee that involve:

23 (a) Physical abuse of children or vulnerable adults as  
24 defined in section 28-371;

25 (b) Endangerment or neglect of children or vulnerable

- 1 adults;
- 2 (c) Sexual abuse, sexual assault, or sexual misconduct;
- 3 (d) Homicide;
- 4 (e) Use, possession, manufacturing, or distribution of a  
5 controlled substance listed in section 28-405;
- 6 (f) Property crimes, including, but not limited to,  
7 fraud, embezzlement, and theft by deception; and
- 8 (g) Use of a weapon in the commission of an unlawful act;
- 9 (4) Conduct or practices detrimental to the health or  
10 safety of a person served by or employed at the program;
- 11 (5) Failure to allow an agent or employee of the  
12 department access to the program for the purposes of inspection,  
13 investigation, or other information collection activities necessary  
14 to carry out the duties of the department;
- 15 (6) Failure to allow state or local inspectors,  
16 investigators, or law enforcement officers access to the program  
17 for the purposes of investigation necessary to carry out their  
18 duties;
- 19 (7) Failure to meet requirements relating to sanitation,  
20 fire safety, and building codes;
- 21 (8) Failure to comply with or violation of the Medication  
22 Aide Act;
- 23 (9) Failure to file a report of suspected abuse or  
24 neglect as required by ~~sections~~ section 28-372 and 28-711; section  
25 64 of this act;

1 (10) Violation of any city, village, or county rules,  
2 regulations, or ordinances regulating licensees; or

3 (11) Failure to pay fees required under the Child Care  
4 Licensing Act.

5 Sec. 294. Section 71-3404, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-3404 The Legislature finds and declares that it is  
8 in the best interests of the state, its citizens, and especially  
9 the children of this state that the number and causes of death  
10 of children in this state be examined. There is a need for a  
11 comprehensive integrated review of all child deaths in Nebraska  
12 and a system for statewide retrospective review of existing records  
13 relating to each child death.

14 It is the intent of the Legislature by enactment of  
15 ~~Laws 1993, LB 431,~~ The purposes of sections 71-3404 to 71-3411  
16 are to: (1) Identify trends from the review of past records to  
17 prevent future deaths from similar causes when applicable; (2)  
18 recommend systematic changes for the creation of a cohesive method  
19 for responding to certain child deaths; and (3) when appropriate,  
20 cause referral to be made to those agencies as required in section  
21 ~~28-711~~ 64 of this act or as otherwise required by state law.

22 Sec. 295. Section 71-3407, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-3407 (1) The purposes of the team shall be to (a)  
25 develop an understanding of the causes and incidence of child

1 deaths in this state, (b) develop recommendations for changes  
2 within relevant agencies and organizations which may serve to  
3 prevent child deaths, and (c) advise the Governor, the Legislature,  
4 and the public on changes to law, policy, and practice which will  
5 prevent child deaths.

6 (2) The team shall:

7 (a) Undertake annual statistical studies of the causes  
8 and incidence of child deaths in this state. The studies shall  
9 include, but not be limited to, an analysis of the records of  
10 community, public, and private agency involvement with the children  
11 and their families prior to and subsequent to the deaths;

12 (b) Develop a protocol for retrospective investigation of  
13 child deaths by the team;

14 (c) Develop a protocol for collection of data regarding  
15 child deaths by the team;

16 (d) Consider training needs, including cross-agency  
17 training, and service gaps;

18 (e) Include in its annual report recommended changes  
19 to any law, rule, regulation, or policy needed to decrease the  
20 incidence of preventable child deaths;

21 (f) Educate the public regarding the incidence and causes  
22 of child deaths, the public role in preventing child deaths, and  
23 specific steps the public can undertake to prevent child deaths.  
24 The team may enlist the support of civic, philanthropic, and public  
25 service organizations in the performance of its educational duties;

1           (g) Provide the Governor, the Legislature, and the public  
2 with annual written reports which shall include the team's findings  
3 and recommendations for each of its duties; and

4           (h) When appropriate, make referrals to those agencies as  
5 required in section ~~28-711~~ 64 of this act or as otherwise required  
6 by state law.

7           Sec. 296. Section 71-6039, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9           71-6039 (1) No person shall act as a nursing assistant in  
10 a nursing home unless such person:

11           (a) Is at least sixteen years of age and has not been  
12 convicted of a crime involving moral turpitude;

13           (b) Is able to speak and understand the English language  
14 or a language understood by a substantial portion of the nursing  
15 home residents; and

16           (c) Has successfully completed a basic course of training  
17 approved by the department for nursing assistants within one  
18 hundred twenty days of initial employment in the capacity of a  
19 nursing assistant at any nursing home.

20           (2)(a) A registered nurse or licensed practical nurse  
21 whose license has been revoked, suspended, or voluntarily  
22 surrendered in lieu of discipline may not act as a nursing  
23 assistant in a nursing home.

24           (b) If a person registered as a nursing assistant becomes  
25 licensed as a registered nurse or licensed practical nurse, his or

1 her registration as a nursing assistant becomes null and void as of  
2 the date of licensure.

3 (c) A person listed on the Nurse Aide Registry with  
4 respect to whom a finding of conviction has been placed on the  
5 registry may petition the department to have such finding removed  
6 at any time after one year has elapsed since the date such finding  
7 was placed on the registry.

8 (3) The department may prescribe a curriculum for  
9 training nursing assistants and may adopt and promulgate rules  
10 and regulations for such courses of training. The content of  
11 the courses of training and competency evaluation programs shall  
12 be consistent with federal requirements unless exempted. The  
13 department may approve courses of training if such courses of  
14 training meet the requirements of this section. Such courses of  
15 training shall include instruction on the responsibility of each  
16 nursing assistant to report suspected abuse or neglect pursuant to  
17 ~~sections~~ section 28-372 and 28-711. section 64 of this act. Nursing  
18 homes may carry out approved courses of training within the nursing  
19 home, except that nursing homes may not conduct the competency  
20 evaluation part of the program. The prescribed training shall be  
21 administered by a licensed registered nurse.

22 (4) For nursing assistants at intermediate care  
23 facilities for the mentally retarded, such courses of training  
24 shall be no less than twenty hours in duration and shall include  
25 at least fifteen hours of basic personal care training and five

1 hours of basic therapeutic and emergency procedure training, and  
2 for nursing assistants at all nursing homes other than intermediate  
3 care facilities for the mentally retarded, such courses shall be no  
4 less than seventy-five hours in duration.

5 (5) This section shall not prohibit any facility from  
6 exceeding the minimum hourly or training requirements.

7 Sec. 297. Section 71-6039.01, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9 71-6039.01 No person shall act as a paid dining assistant  
10 in a nursing home unless such person:

11 (1) Is at least sixteen years of age;

12 (2) Is able to speak and understand the English language  
13 or a language understood by the nursing home resident being fed by  
14 such person;

15 (3) Has successfully completed at least eight hours  
16 of training as prescribed by the department for paid dining  
17 assistants;

18 (4) Has no adverse findings on the Nurse Aide Registry or  
19 the Adult Protective Services Central Registry; and

20 (5) Has no adverse findings on the ~~central register~~ Child  
21 Protection Registry created in section ~~28-718~~ 270 of this act  
22 if the nursing home which employs such person as a paid dining  
23 assistant has at any one time more than one resident under the age  
24 of nineteen years.

25 Sec. 298. Section 71-6039.03, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2           71-6039.03 (1) The department may prescribe a curriculum  
3 for training paid dining assistants and may adopt and promulgate  
4 rules and regulations for such courses of training. Such courses  
5 shall be no less than eight hours in duration. The department  
6 may approve courses of training for paid dining assistants that  
7 meet the requirements of this section. Nursing homes may carry  
8 out approved courses of training and competency evaluation programs  
9 at the nursing home. Training of paid dining assistants shall be  
10 administered by a licensed registered nurse.

11           (2) Courses of training and competency evaluation  
12 programs for paid dining assistants shall include:

13           (a) Feeding techniques;

14           (b) Assistance with feeding and hydration;

15           (c) Communication and interpersonal skills;

16           (d) Appropriate responses to resident behavior;

17           (e) Safety and emergency procedures, including the  
18 abdominal thrust maneuver;

19           (f) Infection control;

20           (g) Resident rights;

21           (h) Recognizing changes in residents that are  
22 inconsistent with their normal behavior and the importance of  
23 reporting those changes to the supervisory nurse;

24           (i) Special needs; and

25           (j) Abuse and neglect, including the responsibility to

1 report suspected abuse or neglect pursuant to ~~sections~~ section  
2 28-372 and ~~28-711~~, section 64 of this act.

3 (3) This section shall not prohibit any facility from  
4 exceeding the minimum hourly or training requirements.

5 Sec. 299. Section 71-6039.05, Revised Statutes Cumulative  
6 Supplement, 2008, is amended to read:

7 71-6039.05 Each nursing home shall maintain (1) a record  
8 of all paid dining assistants employed by such facility, (2)  
9 verification of successful completion of a training course for each  
10 paid dining assistant, and (3) verification that the facility has  
11 made checks with the Nurse Aide Registry, the Adult Protective  
12 Services Central Registry, and the ~~central register created in~~  
13 ~~section 28-718~~, Child Protection Registry, if applicable under  
14 section 71-6039.01, with respect to each paid dining assistant.

15 Sec. 300. Section 71-6502, Revised Statutes Cumulative  
16 Supplement, 2008, is amended to read:

17 71-6502 An in-home personal services worker:

18 (1) Shall be at least eighteen years of age;

19 (2) Shall have good moral character;

20 (3) Shall not have been convicted of a crime under the  
21 laws of Nebraska or another jurisdiction, the penalty for which is  
22 imprisonment for a period of more than one year and which crime is  
23 rationally related to the person's fitness or capacity to act as an  
24 in-home personal services worker;

25 (4) Shall have no adverse findings on the Adult

1 Protective Services Central Registry, the ~~central register created~~  
2 ~~in section 28-718,~~ Child Protection Registry, the Medication  
3 Aide Registry, the Nurse Aide Registry, or the central registry  
4 maintained by the sex offender registration and community  
5 notification division of the Nebraska State Patrol pursuant to  
6 section 29-4004;

7 (5) Shall be able to speak and understand the English  
8 language or the language of the person for whom he or she is  
9 providing in-home personal services; and

10 (6) Shall have training sufficient to provide the  
11 requisite level of in-home personal services offered.

12 Sec. 301. Section 71-6906, Revised Statutes Cumulative  
13 Supplement, 2008, is amended to read:

14 71-6906 Notification shall not be required pursuant to  
15 sections 71-6901 to 71-6908 if any of the following conditions  
16 exist:

17 (1) The attending physician certifies in writing in the  
18 pregnant woman's medical record that continuation of the pregnancy  
19 provides an immediate threat and grave risk to the life or health  
20 of the pregnant woman and there is insufficient time to provide the  
21 required notification;

22 (2) The abortion is authorized in writing by the person  
23 who is entitled to notification; or

24 (3) The pregnant woman declares that she is a victim of  
25 abuse as defined in section 28-351, or sexual abuse as defined in

1 section 28-367, or ~~child abuse or neglect as defined in section~~  
2 ~~28-710.~~ is an abused child as defined in section 5 of this  
3 act. Notice of such a declaration shall be made to the proper  
4 authorities as provided in ~~sections~~ section 28-372. ~~and 28-711.~~ If  
5 such a declaration is made, the attending physician or his or her  
6 agent shall inform the pregnant woman of his or her duty to notify  
7 the proper authorities as provided in ~~sections~~ section 28-372. ~~and~~  
8 ~~28-711.~~

9           Sec. 302. Section 79-215, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           79-215 (1) Except as otherwise provided in this section,  
12 a student is a resident of the school district where he or she  
13 resides or any school district where at least one of his or her  
14 parents reside and shall be admitted to any such school district  
15 upon request without charge.

16           (2) A school board shall admit any homeless student that  
17 requests admission without charge.

18           (3) A school board may allow a student whose residency  
19 in the district ceases during a school year to continue attending  
20 school in such district for the remainder of that school year.

21           (4) A school board may admit nonresident students to the  
22 school district pursuant to a contract with the district where the  
23 student is a resident and shall collect tuition pursuant to the  
24 contract.

25           (5) A school board may admit nonresident students to

1 the school district pursuant to the enrollment option program as  
2 authorized by sections 79-232 to 79-246, and such admission shall  
3 be without charge.

4 (6) A school board may admit a student who is a resident  
5 of another state to the school district and collect tuition in  
6 advance at a rate determined by the school board.

7 (7) When a student as a ward of the state or as a ward  
8 of any court (a) has been placed in a school district other than  
9 the district in which he or she resided at the time he or she  
10 became a ward and such ward does not reside in a foster family home  
11 licensed or approved by the Department of Health and Human Services  
12 or a foster home maintained or used pursuant to section 83-108.04  
13 or (b) has been placed in any institution which maintains a special  
14 education program which has been approved by the State Department  
15 of Education and such institution is not owned or operated by  
16 the district in which he or she resided at the time he or she  
17 became a ward, the cost of his or her education and the required  
18 transportation costs associated with the student's education shall  
19 be paid by the state, but not in advance, to the receiving  
20 school district or approved institution under rules and regulations  
21 prescribed by the Department of Health and Human Services and the  
22 student shall remain a resident of the district in which he or  
23 she resided at the time he or she became a ward. Any student who  
24 is a ward of the state or a ward of any court who resides in a  
25 foster family home licensed or approved by the Department of Health

1 and Human Services or a foster home maintained or used pursuant  
2 to section 83-108.04 shall be deemed a resident of the district  
3 in which he or she resided at the time he or she became a foster  
4 child, unless it is determined under ~~section 43-1311 or 43-1312~~ the  
5 Nebraska Juvenile Code that he or she will not attend such district  
6 in which case he or she shall be deemed a resident of the district  
7 in which the foster family home or foster home is located.

8 (8) When a student is not a ward of the state or  
9 a ward of any court and is residing in a residential setting  
10 located in Nebraska for reasons other than to receive an education  
11 and the residential setting is operated by a service provider  
12 which is certified or licensed by the Department of Health and  
13 Human Services or is enrolled in the medical assistance program  
14 established pursuant to the Medical Assistance Act and Title XIX  
15 or XXI of the federal Social Security Act, as amended, the student  
16 shall remain a resident of the district in which he or she  
17 resided immediately prior to residing in such residential setting.  
18 Upon request by a parent or legal guardian, the resident school  
19 district shall contract with the district in which such residential  
20 setting is located for the provision of all educational services,  
21 including all special education services. If the parent or legal  
22 guardian has requested that the resident school district contract  
23 with the district in which such residential setting is located,  
24 the district in which such residential setting is located shall  
25 contract with the resident district and provide all educational

1 services, including all special education services, to the student.  
2 If the two districts cannot agree on the amount of the contract,  
3 the State Department of Education shall determine the amount  
4 to be paid by the resident district to the district in which  
5 such residential setting is located based on the needs of the  
6 student, approved special education rates, the department's general  
7 experience with special education budgets, and the cost per student  
8 in the district in which such residential setting is located. Once  
9 the contract has been entered into, all legal responsibility for  
10 special education and related services shall be transferred to the  
11 school district in which the residential setting is located. The  
12 resident district for a student who is not a ward of the state or a  
13 ward of any court does not change when the student moves from one  
14 residential setting to another.

15 (9) In the case of any individual eighteen years of  
16 age or younger who is a ward of the state or any court and who  
17 is placed in a county detention home established under section  
18 ~~43-2,110,~~ 249 of this act, the cost of his or her education shall  
19 be paid by the state, regardless of the district in which he or  
20 she resided at the time he or she became a ward, to the agency  
21 or institution which: (a) Is selected by the county board with  
22 jurisdiction over such detention home; (b) has agreed or contracted  
23 with such county board to provide educational services; and (c)  
24 has been approved by the State Department of Education pursuant to  
25 rules and regulations prescribed by the State Board of Education.

1           (10) No tuition shall be charged for students who may be  
2 by law allowed to attend the school without charge.

3           (11) On a form prescribed by the State Department of  
4 Education, an adult with legal or actual charge or control of a  
5 student shall provide the name of the student, the name of the  
6 adult with legal or actual charge or control of the student, the  
7 address where the student is residing, and the telephone number  
8 and address where the adult may generally be reached during the  
9 school day. If the student is homeless or if the adult does not  
10 have a telephone number and address where he or she may generally  
11 be reached during the school day, those parts of the form may be  
12 left blank and a box may be marked acknowledging that these are the  
13 reasons these parts of the form were left blank. The adult with  
14 legal or actual charge or control of the student shall also sign  
15 the form.

16           (12) The department shall adopt and promulgate rules and  
17 regulations to carry out the department's responsibilities under  
18 this section.

19           Sec. 303. Section 81-3126, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           81-3126 (1) For purposes of this section:

22           (a) Chief executive officer means the chief executive  
23 officer of the Department of Health and Human Services;

24           (b) Child abuse or neglect ~~has the same meaning as in~~  
25 ~~section 28-710,~~ includes an abandoned child as defined in section 4

1 of this act, an abused child as defined in section 5 of this act,  
2 and a neglected child as defined in section 38 of this act;

3 (c) Child fatality means the death of a child from  
4 suspected abuse, neglect, or maltreatment as determined by the  
5 county coroner or county attorney;

6 (d) Department means the Department of Health and Human  
7 Services;

8 (e) Director means the Director of Children and Family  
9 Services;

10 (f) Division means the Division of Children and Family  
11 Services of the Department of Health and Human Services; and

12 (g) Near fatality means a case in which an examining  
13 physician determines that a child is in serious or critical  
14 condition as the result of sickness or injury caused by suspected  
15 abuse, neglect, or maltreatment.

16 (2) Notwithstanding any other provision of state law,  
17 the chief executive officer or director may disclose information  
18 regarding child abuse or neglect and the investigation of and  
19 any services related to the child abuse and neglect if the chief  
20 executive officer or director determines that such disclosure is  
21 not contrary to the best interests of the child, the child's  
22 siblings, or other children in the household, and any one of the  
23 following factors is present:

24 (a) The alleged perpetrator of the child abuse or neglect  
25 has been charged with committing a crime related to the report of

1 child abuse or neglect maintained by the division;

2 (b) A judge, a law enforcement agency official, a  
3 county attorney, or another state or local investigative agency  
4 or official has publicly disclosed the provision of services  
5 related to or the investigation of the child abuse or neglect;

6 (c) An individual who is the parent, custodian, foster  
7 parent, provider, or guardian of the victim or a child victim over  
8 fourteen years of age has made a prior knowing, voluntary, public  
9 disclosure;

10 (d) The information relates to a child fatality or near  
11 fatality;

12 (e) The information is released to confirm, clarify, or  
13 correct information concerning an allegation or actual instance  
14 of child abuse or neglect which has been made public by sources  
15 outside the department; or

16 (f) A child who is in the custody of the department  
17 is missing from his or her placement, in which case the chief  
18 executive officer or director may release the name and physical  
19 description of the child.

20 (3) Information that may be disclosed includes, but is  
21 not limited to, child placement, whether in-home or out-of-home,  
22 terms of contact, hearing dates, the reason for removal from  
23 parents or placement, the number of placements and type, permanency  
24 objectives, court-ordered services or other services provided by  
25 the division, and status of the court process. The following

1 information shall not be released by the chief executive officer  
2 or director absent a court order: Date of birth, social security  
3 number, protected health information, the name of the person who  
4 made the report of child abuse or neglect pursuant to section  
5 ~~28-711~~, 64 of this act, and names of foster parents, unless the  
6 foster parent is the alleged perpetrator.

7 (4) The chief executive officer or director may release  
8 the results of criminal history record checks that have been  
9 completed by the division as authorized by law.

10 (5) For purposes of this section, the best interests of  
11 the child, the child's siblings, or other children in the household  
12 does not allow the disclosure of information that would impede  
13 a pending or current criminal investigation by a law enforcement  
14 agency.

15 (6) The division may adopt and promulgate rules and  
16 regulations to carry out this section.

17 Sec. 304. Section 83-108.04, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 83-108.04 (1) In addition to the institutions established  
20 by law, the Department of Health and Human Services may maintain or  
21 use the following facilities for the care of children ~~in its legal~~  
22 ~~e custody who have been adjudged to be as described in subdivision~~  
23 ~~(1), (2), (3)(b), or (4) of section 43-247~~: placed with the  
24 department under the Nebraska Juvenile Code: (a) Receiving homes  
25 to be used for the temporary care of children; (b) foster homes;

1 (c) group homes; and (d) other facilities and services, including  
2 forestry or conservation camps for the training and treatment of  
3 children.

4 (2) The Department of Health and Human Services also may  
5 use other public facilities or contract for the use of private  
6 facilities for the care and treatment of children ~~in its legal~~  
7 ~~custody.~~ placed with the department. Placement of children in  
8 private or public facilities not under its jurisdiction shall not  
9 terminate the legal custody of the department. No state funds may  
10 be paid for care of a child in the home of a parent.

11 Sec. 305. Section 83-170, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 83-170 As used in the Nebraska Treatment and Corrections  
14 Act, unless the context otherwise requires:

15 (1) Administrator shall mean the Parole Administrator;

16 (2) Board shall mean the Board of Parole;

17 (3) Committed offender shall mean any person who, under  
18 any provision of law, is sentenced or committed to a facility  
19 operated by the department or is sentenced or committed to the  
20 department other than a person adjudged ~~to be as described in~~  
21 ~~subdivision (1), (2), (3)(b), or (4) of section 43-247 by a~~  
22 juvenile court, adjudicated by a juvenile court under the Nebraska  
23 Juvenile Code;

24 (4) Department shall mean the Department of Correctional  
25 Services;

1           (5) Director shall mean the Director of Correctional  
2 Services;

3           (6) Facility shall mean any prison, reformatory, training  
4 school, reception center, community guidance center, group home, or  
5 other institution operated by the department;

6           (7) Good time shall mean any reduction of sentence  
7 granted pursuant to sections 83-1,107 and 83-1,108;

8           (8) Maximum term shall mean the maximum sentence provided  
9 by law or the maximum sentence imposed by a court, whichever is  
10 shorter;

11          (9) Minimum term shall mean the minimum sentence provided  
12 by law or the minimum sentence imposed by a court, whichever is  
13 longer;

14          (10) Pardon authority shall mean the power to remit  
15 fines and forfeitures and to grant respites, reprieves, pardons, or  
16 commutations;

17          (11) Parole term shall mean the time from release on  
18 parole to the completion of the maximum term, reduced by good time;  
19 and

20          (12) Person committed to the department shall mean any  
21 person sentenced or committed to a facility within the department.

22          Sec. 306. The Revisor of Statutes shall assign (1)  
23 section 244 of this act within sections 43-101 to 43-115, (2)  
24 sections 247 to 249 of this act to follow section 43-2,127, (3)  
25 section 254 of this act to Chapter 43, article 7, and (4) sections

1 269 to 285 of this act to Chapter 43, article 19.

2           Sec. 307. This act becomes operative on January 1, 2010.

3           Sec. 308. Original sections 23-1201, 24-313, 24-519,  
4 25-1901, 25-2728, 25-2908, 28-377, 28-718, 28-719, 28-720,  
5 28-720.01, 28-721, 28-722, 28-723, 28-724, 28-725, 28-726, 28-727,  
6 28-728, 28-729, 28-730, 28-731, 28-732, 29-401, 29-1816, 29-1926,  
7 29-2246, 29-2252.01, 29-2258, 29-2260, 29-2260.01, 29-3918,  
8 29-4304, 30-2614, 42-364, 42-371, 43-101, 43-104, 43-104.08,  
9 43-104.11, 43-106.01, 43-107, 43-296, 43-2,108, 43-2,109, 43-2,110,  
10 43-2,113, 43-2,125, 43-413, 43-512, 43-512.03, 43-903, 43-1002,  
11 43-1230, 43-1303, 43-1304, 43-1307, 43-1308, 43-1309, 43-1310,  
12 43-1314.01, 43-1314.02, 43-1321, 43-2922, 43-2932, 43-2939,  
13 43-3502, 43-3709, 43-3710, 71-3404, 71-3407, 79-215, 81-3126,  
14 83-108.04, and 83-170, Reissue Revised Statutes of Nebraska,  
15 and sections 71-448, 71-1919, 71-6039, 71-6039.01, 71-6039.03,  
16 71-6039.05, 71-6502, and 71-6906, Revised Statutes Cumulative  
17 Supplement, 2008, are repealed.

18           Sec. 309. The following sections are outright repealed:  
19 Sections 28-710, 28-711, 28-713, 28-713.01, 28-714, 28-715,  
20 28-716, 28-717, 28-733, 43-245, 43-246, 43-247, 43-247.01, 43-248,  
21 43-248.01, 43-249, 43-250, 43-251, 43-251.01, 43-252, 43-253,  
22 43-254, 43-254.01, 43-254.02, 43-255, 43-256, 43-257, 43-258,  
23 43-259, 43-260, 43-260.01, 43-260.02, 43-260.03, 43-260.04,  
24 43-260.05, 43-260.06, 43-260.07, 43-262, 43-263, 43-264, 43-265,  
25 43-266, 43-267, 43-268, 43-269, 43-270, 43-271, 43-272, 43-272.01,

LB 253

LB 253

1 43-272.02, 43-273, 43-274, 43-275, 43-276, 43-277, 43-278, 43-279,  
2 43-279.01, 43-280, 43-281, 43-282, 43-283, 43-283.01, 43-284,  
3 43-284.01, 43-284.02, 43-285, 43-286, 43-287.01, 43-287.02,  
4 43-287.03, 43-287.04, 43-287.05, 43-287.06, 43-288, 43-289, 43-290,  
5 43-291, 43-292, 43-292.01, 43-292.02, 43-292.03, 43-293, 43-294,  
6 43-295, 43-297, 43-298, 43-299, 43-2,100, 43-2,101, 43-2,102,  
7 43-2,103, 43-2,104, 43-2,105, 43-2,106, 43-2,106.01, 43-2,106.02,  
8 43-2,106.03, 43-2,107, 43-2,123.01, 43-2,128, 43-2,129, 43-408,  
9 43-903, 43-905, 43-1301, 43-1301.01, 43-1311, 43-1312, 43-1313,  
10 43-1314, 43-1315, 43-1316, and 43-1318, Reissue Revised Statutes  
11 of Nebraska.